

IN THE COURT OF APPEALS OF IOWA

No. 20-0408
Filed August 18, 2021

STATE OF IOWA,
Plaintiff-Appellee,

vs.

ERIC TYRONE DAUGHERTY SR.,
Defendant-Appellant.

Appeal from the Iowa District Court for Polk County, Sarah Crane, Judge.

Eric Tyrone Daugherty Sr. appeals from his conviction of second-degree robbery. **AFFIRMED.**

Gary Dickey of Dickey, Campbell, & Sahag Law Firm, PLC, Des Moines, for appellant.

Thomas J. Miller, Attorney General, and Kyle Hanson, Assistant Attorney General, for appellee.

Considered by Bower, C.J., and Vaitheswaran and Schumacher, JJ.

BOWER, Chief Judge.

Eric Tyrone Daugherty Sr. appeals from his conviction of second-degree robbery, in violation of Iowa Code sections 711.1 and 711.3 (2019). We affirm.

At about 6:30 a.m. on October 21, 2019, a Git-N-Go was robbed. Surveillance video from the business shows a man entering the premises dressed in a red billed cap, red shoes, black pants, a long-sleeved red shirt over which he wore a red and white plaid short-sleeved shirt and a red vest. The perpetrator was holding a handgun, which he then pointed at the two employees behind the counter and demanded money. The store supervisor placed approximately ninety dollars in a brown paper bag and handed it to the robber. As the man was leaving, white writing on his cap can be seen. The two employees described the robber to responding police officers as in his thirties, five foot five, 180 pounds, no visible tattoos, wearing a red vest with a red flannel shirt, black pants, and red shoes.

At about 3:00 a.m. on October 22, Daugherty was pulled over in a traffic stop. Daugherty was wearing a black sweatshirt, a red and white checkered shirt, a red long-sleeved shirt, red tennis shoes, and dark blue jeans. A red billed cap with white writing was in the vehicle. A BB handgun was found on the driver's side floor and a brown paper bag like the bag the store supervisor placed the money in was found in the driver's-side door.

Each of the two witnesses was presented with a six-person photo lineup on October 23, and each selected Daugherty as the perpetrator of the robbery.

After a jury trial, Daugherty was convicted of second-degree robbery.

Daugherty appeals, contending there is insufficient evidence to establish he was the robber. He notes the two witnesses described the perpetrator to police as

a man who was in his thirties and about five foot five inches tall—Daugherty is in his fifties and five foot nine inches.

We review challenges to the sufficiency of the evidence for correction of legal error. *State v. Schiebout*, 944 N.W.2d 666, 670 (Iowa 2020). “We will uphold the verdict on a sufficiency-of-evidence claim if substantial evidence supports it.” *Id.* “Evidence is substantial ‘if, when viewed in the light most favorable to the State, it can convince a rational jury that the defendant is guilty beyond a reasonable doubt.’” *Id.* (citation omitted).

Despite the imprecision of the witnesses’ original descriptions of the perpetrator’s age and height, both witnesses identified Daugherty in a photo lineup, identified Daugherty as the robber during trial, and when police stopped Daugherty’s vehicle, they found a black BB handgun on the driver side floorboard of his car and a brown paper sack in the driver side door pocket. In addition, when stopped, Daugherty was wearing clothing matching the robber’s as seen on the surveillance video. The State presented sufficient evidence from which the jury could find Daugherty committed the robbery. We therefore affirm without further opinion. See Iowa Ct. R. 21.26(1)(b), (e).

AFFIRMED.