

IN THE COURT OF APPEALS OF IOWA

No. 2-1119 / 12-0395
Filed January 24, 2013

STATE OF IOWA,
Plaintiff-Appellee,

vs.

ANTHONY MICHAEL LAWSON,
Defendant-Appellant.

Appeal from the Iowa District Court for Webster County, Kurt L. Wilke,
Judge.

Anthony Michael Lawson challenges the sufficiency of the evidence to sustain his second-degree burglary conviction and contends the district court erred by failing to provide any reasons for its sentence. **CONVICTION AFFIRMED, SENTENCE VACATED, AND REMANDED FOR RESENTENCING.**

Mark C. Smith, State Appellate Defender, and Theresa R. Wilson, Assistant State Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Sheryl Soich, Assistant Attorney General, Ricki Osborn, County Attorney, and Cori Kuhn Coleman, Assistant County Attorney, for appellee.

Considered by Potterfield, P.J., and Danilson and Tabor, JJ.

DANILSON, J.

Anthony Michael Lawson appeals from his conviction and sentence, following a jury trial, for second-degree burglary, in violation of Iowa Code section 713.1 and .5(2) (2011). He argues there is insufficient evidence of a specific intent to commit an assault at the time of entry to sustain the conviction. He also contends that the district court erred by failing to provide any reasons for its sentence. We conclude the circumstantial evidence provides substantial evidence to support the verdict. We affirm Lawson's conviction, vacate his sentence for lack of reasons for the sentence, and remand for resentencing.

In evaluating the defendant's claim that the district court should have granted his motion for judgment of acquittal, we apply a sufficiency-of-the-evidence test and view the evidence in the light most favorable to the State. *State v. Shanahan*, 712 N.W.2d 121, 134 (Iowa 2006). The verdict must be supported by substantial evidence. *Id.* "If the evidence could convince a rational trier of fact the defendant is guilty of the charged crime beyond a reasonable doubt, it is substantial." *Id.*

Lawson contends the evidence at trial did not establish that he had the intent to commit an assault when he kicked in the door of his wife's home at 2 a.m. We disagree.

In order to sustain a conviction for burglary the State must prove, beyond a reasonable doubt, [the defendant] had formed the intent to commit an assault at the time of entry. This element of the offense is seldom susceptible to proof by direct evidence, and is usually established by inference. Intent may be derived from actions preceding, or subsequent to, an accused's unauthorized entry, as well as all circumstances attendant thereto.

State v. Lambert, 612 N.W.2d 810, 813-14 (Iowa 2000) (citations omitted).

The jury heard testimony that in the early morning hours of July 6, 2011, Lawson called his wife for a ride. Even though there was a criminal protective order prohibiting contact with his wife, she did give him a ride. However, they started to argue, and she told him to get out of the car. At about 2 a.m., Lawson began pounding on the back door of her home, calling her names and demanding entry contending that he needed to retrieve clothes. Both his wife and her thirteen-year-old daughter repeatedly yelled for Lawson to leave. Instead, Lawson kicked the door open, came within a few feet of the two occupants and continued to call his wife a “bitch” and a “whore.” An angry Lawson then went into the laundry room and then his wife’s bedroom, where the thirteen-year-old tried to get a cell phone from him. He threw the girl on the bed and began strangling her. When his wife tried to get him off the girl, he threw his wife down on the couch and hit her in the stomach several times. He ran from the house when the girl called police.

The district court stated in rejecting Lawson’s motion for new trial:

Here, Mr. Lawson’s fight with Ms. Lawson prior to the unauthorized entry supports an inference of intent to commit assault at the time of the entry. The circumstances attendant to entry—violent kicks and expletives—also support that inference. Finally, the facts upon and subsequent to entry—yelling at Ms. Lawson’s daughter until she backed down and ultimately striking Ms. Lawson and her daughter—support the inference. True, circumstances probably also show intent to retrieve property. However, the two are not mutually exclusive.

We conclude this same reasoning is applicable to Lawson’s motion for judgment of acquittal. Thus, we conclude there was sufficient evidence from which a jury

could properly find that Lawson, upon entry, intended to put his estranged wife in fear of immediate physical contact which will be painful, injurious, insulting, or offensive. See Iowa Code § 708.1 (defining assault); *Shanahan*, 712 N.W.2d at 135 (“The function of the jury is to weigh the evidence and ‘place credibility where it belongs.’” (citation omitted)).

At the sentencing hearing, the State recommended a ten-year term of imprisonment. Lawson asked for placement in a residential facility. The district court listened to the parties’ recommendations and witness impact statements. It then sentenced Lawson to a term not to exceed ten years. The written sentencing order provides it was “[f]or the reasons stated on the record at the time of sentencing.”

Iowa Rule of Criminal Procedure 2.23(3)(d) requires the sentencing court to state on the record its reasons for selecting a particular sentence. The explanation does not need to be detailed, but the court must at least provide a cursory explanation. See *State v. Hennings*, 791 N.W.2d 828, 838 (Iowa 2010); *State v. Johnson*, 445 N.W.2d 337, 343 (Iowa 1989). The purpose for this rule is to allow us to determine whether there has been an abuse of discretion. *State v. Mai*, 572 N.W.2d 168, 170 (Iowa Ct. App. 1997). Failure to adequately state the reasons for the sentence imposed requires that the sentence be vacated and the case remanded for amplification of the record and resentencing. *Id.*

Upon our review of the record, we find the court failed to give any reasons for the sentence it imposed. The State concedes this point. Accordingly, we

conclude Lawson's sentence must be vacated and his case remanded for resentencing.

CONVICTION AFFIRMED, SENTENCE VACATED, AND REMANDED FOR RESENTENCING.