

IN THE COURT OF APPEALS OF IOWA

No. 2-128 / 11-0528
Filed February 29, 2012

STATE OF IOWA,
Plaintiff-Appellee,

vs.

BENJAMIN NAGBEAH GADDEH,
Defendant-Appellant.

Appeal from the Iowa District Court for Black Hawk County, Thomas N. Bower, Judge.

A defendant appeals his judgments and convictions for criminal trespass with damage and second-degree criminal mischief, contending the record lacks sufficient evidence to establish the dollar value required for the findings of guilt.

AFFIRMED.

Mark C. Smith, State Appellate Defender, and Robert P. Ranschau, Assistant Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Martha E. Trout, Assistant Attorney General, Thomas J. Ferguson, County Attorney, and Jim Katcher, Assistant County Attorney, for appellee.

Considered by Vaitheswaran, P.J., and Tabor and Mullins, JJ. Bower, J., takes no part.

VAITHESWARAN, P.J.

The State charged Benjamin Gaddeh with first-degree burglary and second-degree criminal mischief after he entered his girlfriend's apartment and smashed a television and entertainment center.¹ A jury found Gaddeh guilty of criminal trespass with damage and second-degree criminal mischief, and the district court imposed judgment and sentence.

On appeal, Gaddeh contends the record lacks sufficient evidence to establish the dollar value required for the findings of guilt.² Our review is for substantial evidence. *State v. Williams*, 674 N.W.2d 69, 71 (Iowa 2004).

Second-degree criminal mischief requires a showing that “the cost of replacing, repairing, or restoring the property so damaged, defaced, altered, or destroyed exceeds \$1000 but does not exceed \$10,000.” Iowa Code § 716.4 (2009). Testimony about value “is liberally received, with its weight to be determined by the jury.” *State v. Savage*, 288 N.W.2d 502, 504 (Iowa 1980). An owner of the property is competent to testify to its value. *State v. Boyken*, 217 N.W.2d 218, 220 (Iowa 1974).

Gaddeh's girlfriend testified that she purchased the television on a ninety-day same-as-cash plan, and completed the payments. The State introduced the sales agreement, which reflects that she paid a total of \$655.99 plus tax between

¹ There was also evidence that Gaddeh may have damaged some CDs and DVDs. We find it unnecessary to resolve the dollar value of these items, if indeed they were destroyed or damaged.

² The jury was instructed that the dollar value for a finding of guilt on criminal trespass with damage was \$100. However, Iowa Code section 716.8(2) (2009) provides that a person commits the offense of criminal trespass with damage when damage exceeds \$200. Gaddeh has not challenged that jury instruction, and in any event, if there is sufficient evidence to support the dollar value for second-degree criminal mischief, which is \$1000 to \$10,000 in damage, there is necessarily sufficient evidence to support the dollar value for criminal trespass with damage. Iowa Code § 716.4.

February and July 2009. The television was destroyed in November 2009, just four-and-a-half months after the last payment.

Gaddeh's girlfriend also testified that she purchased the entertainment center on a ninety-day rent-to-own basis and completed payments on that piece as well. The State introduced a rental purchase agreement which reflected a cash price of \$649.90. The item was purchased in the same year as it was destroyed.

The total payments on these two items exceeded \$1000. While the State did not introduce evidence of the items' values on the date of destruction, the jury reasonably could have inferred from the minimal lapse of time since their purchase that the cost to replace them would have at least equaled the price paid.

We affirm Gaddeh's judgments and sentences for criminal trespass with damage and second-degree criminal mischief.

AFFIRMED.