

IN THE COURT OF APPEALS OF IOWA

No. 2-801 / 11-1950
Filed September 19, 2012

STATE OF IOWA,
Plaintiff-Appellee,

vs.

CHRISTOPHER ALLEN PEARSON,
Defendant-Appellant.

Appeal from the Iowa District Court for Polk County, Douglas Staskal,
Judge.

Defendant appeals his conviction for possession of a concealed weapon.

AFFIRMED.

Joey T. Hoover of Hoover Law Firm P.L.L.C., Winterset, for appellant.

Thomas J. Miller, Attorney General, Thomas Henry Miller, Assistant
Attorney General, John P. Sarcone, County Attorney, and David Porter, Assistant
County Attorney, for appellee.

Considered by Eisenhauer, C.J., and Doyle and Tabor, JJ.

EISENHAUER, C.J.

Christopher Pearson appeals from his conviction following a jury verdict finding him guilty of carrying a concealed weapon. See Iowa Code § 724.4 (2011). Pearson argues there was insufficient evidence on the element of “concealment.”

We review his claim for corrections of errors at law. *State v. Williams*, 695 N.W.2d 23, 27 (Iowa 2005). The jury’s verdict is binding upon a reviewing court unless there is an absence of substantial evidence in the record to sustain it. *Fenske v. State*, 592 N.W.2d 333, 343 (Iowa 1999). Substantial evidence is evidence upon which a rational finder of fact could find a defendant guilty beyond a reasonable doubt. *State v. Rohm*, 609 N.W.2d 504, 509 (Iowa 2000). “[W]e view the evidence in the light most favorable to the State, including legitimate inferences and presumptions which may fairly and reasonably be deduced from the evidence in the record.” *State v. Leckington*, 713 N.W.2d 208, 213 (Iowa 2006).

After witnesses identified Pearson’s parked SUV as the vehicle involved in a recent hit and run, uniformed Police Officer Follett approached the SUV and observed Pearson “passed out” in the driver’s seat and smelling of alcohol. Both for safety and in anticipation of performing field sobriety tests, Officer Follett woke Pearson and asked him to exit the SUV. Pearson uttered profanities at the officer. After Officer Follett opened the driver’s door, Pearson got out and stood with his hands concealed behind his back. Instead of complying with Officer’s Follett’s request he show his hands, Pearson leaned back across the driver’s seat with “his left hand reaching for something over to the passenger’s seat.”

Officer Follett had not observed a weapon, but was concerned for his safety, so he pulled Pearson away from the vehicle. Pearson yelled and struggled with Officer Follett, who radioed for help and succeeded in handcuffing Pearson.

Following Pearson's arrest, officers searched his SUV and discovered a machete "squished in between the seat, passenger seat, and the center console."

"Concealment" is determined by using an objective standard:

We discern the policy underlying the prohibition against concealed weapons to be based on the protection of those persons who may come into contact with a weapon bearer. If a weapon is not concealed, one may take notice of the weapon and its owner and govern oneself accordingly. No such opportunity for cautious behavior or self-preservation exists for one encountering a bearer of a concealed weapon. We believe that the intended protection of the statute is best furthered by applying an objective test for determining the concealment element

With reference to weapons contained in vehicles . . . concealment is considered from the vantage point of one approaching the vehicle. From this perspective, it should not matter if a defendant did not intend to conceal a weapon, for someone's innocent thoughts do not make a hidden weapon any more visible.

On the facts before us, we find sufficient evidence of concealment. The defendant's machete was on the floor of his van between two seats. One would have to enter the van and peer over the front seat to see the machete. A rational trier of fact could find that the machete was not discernible by ordinary observation and was thus concealed.

State v. Newsom, 563 N.W.2d 618, 619-20 (Iowa 1997) (citations omitted).

When viewing the evidence in the light most favorable to the State, we find sufficient evidence of "concealment." A rational trier of fact could have found the Pearson machete was not visible to Officer Follett as he approached and was thus concealed. Accordingly, substantial evidence supports the jury's verdict.

AFFIRMED.