

IN THE COURT OF APPEALS OF IOWA

No. 3-435 / 12-0781
Filed July 24, 2013

STATE OF IOWA,
Plaintiff-Appellee,

vs.

RAMON DEMETRIUS HARPER,
Defendant-Appellant.

Appeal from the Iowa District Court for Black Hawk County, David F. Staudt, Judge.

Defendant appeals his conviction for attempt to commit murder.

AFFIRMED.

Mark C. Smith, State Appellate Defender, and Patricia Reynolds, Assistant Appellate Defender, for appellant.

Ramon D. Harper, Anamosa, pro se.

Thomas J. Miller, Attorney General, Thomas S. Tauber, Assistant Attorney General, Thomas J. Ferguson, County Attorney, and Brook Jacobsen, Assistant County Attorney, for appellee.

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

EISENHAUER, C.J.

Raymond Harper appeals from his conviction, following a jury trial, for attempt to commit murder.¹ See Iowa Code § 707.11 (2009). After Harper entered a convenience store, he walked directly to Domonique Turner. Several witnesses in the convenience store testified Harper repeatedly hit Turner in the head with a rubber mallet, including repeated blows to the head during the time Turner lay helpless on the tile floor. Harper stopped the blows to Turner's head only when bystanders and the store manager intervened. The convenience store's videotape showing the incident was played for the jury. When his assault was interrupted, Turner exited the store, entered his girlfriend's car, immediately left the area, and then left the state. Due to Turner's severe head injury, he was transported by helicopter to an Iowa City hospital for immediate neurosurgery. Prior to the assault, Harper believed Turner took a portion of the money Harper had given Turner's girlfriend for safekeeping. Additionally, one witness testified on the *day after* Harper assaulted Turner, the witness saw a "regular" claw hammer on the backseat of Turner's girlfriend's car.

Without objection, the jury was instructed the State must prove: (1) on November 11, 2009, Harper "struck [Turner] with a mallet-like object"; (2) by his acts Harper "expected to set in motion a force or chain of events which would cause or result in the death" of Turner; and (3) "[w]hen [Harper] acted, he specifically intended to cause the death" of Turner. During closing arguments, defense counsel admitted Harper struck Turner with a rubber mallet but argued

¹ Harper does not appeal his convictions for (1) willful injury, (2) going armed with intent, and (3) flight to avoid prosecution.

Harper did not have the specific intent to kill Turner. Counsel asserted the evidence only supported the offense of “assault causing a serious injury.”

Harper argues the trial court erred in denying his motion for judgment of acquittal due to insufficient evidence he specifically intended to cause the death of Turner. Harper points to the evidence (1) he did not explicitly threaten to harm Turner, (2) he assaulted Turner in a crowded store, (3) he may have had access to a claw hammer but used an arguably less-dangerous rubber mallet during the assault, and (4) Turner was not aware of any animosity towards him by Harper.

We review Harper’s challenge to the sufficiency of the evidence for correction of errors at law. See *State v. Hearn*, 797 N.W.2d 577, 579 (Iowa 2011). The jury’s verdict is binding if supported by substantial evidence. *Id.* 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). We view all the evidence in the record in the “light most favorable to the State, including legitimate inferences and presumptions which may fairly and reasonably be deduced from the evidence.” *State v. Leckington*, 713 N.W.2d 208, 213 (Iowa 2006). Inherent in our standard of review “is the recognition the jury was free to reject certain evidence, and credit other evidence.” *State v. Nitche*, 720 N.W.2d 547, 556 (Iowa 2006).

We note specific intent “is seldom capable of direct proof, but can be inferred from the facts and circumstances surrounding the act.” *State v. True*, 190 N.W.2d 405, 406 (Iowa 1971). The jury is free to use circumstantial evidence because “circumstantial evidence is equally probative as direct evidence for the State to use to prove a defendant guilty beyond a reasonable

doubt.” *State v. Brubaker*, 805 N.W.2d 164, 172 (Iowa 2011). Harper “is presumed to intend the necessary or the natural and probable consequences of his unlawful voluntary acts, knowingly performed.” *True*, 190 N.W.2d at 407.

A reasonable jury could find Harper specifically intended to cause Turner’s death when it considered the natural and probable consequences of Harper hitting Turner in the head numerous times with the force required to cause the critical injuries Turner sustained. See *State v. Radeke*, 444 N.W.2d 476, 478 (Iowa 1989) (ruling defendant’s intent may be gathered from his own words and actions in light of the surrounding circumstances). We conclude there was sufficient evidence of Harper’s specific intent and affirm his conviction for attempt to commit murder.

AFFIRMED.