

**IN THE COURT OF APPEALS OF IOWA**

No. 7-837 / 06-1810  
Filed December 12, 2007

**STATE OF IOWA,**  
Plaintiff-Appellee,

**vs.**

**MONSHEEKA GRAY DIANA WHITE,**  
Defendant-Appellant.

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Appeal from the Iowa District Court for Scott County, Bobbie Alpers,  
Judge.

Monsheeka White appeals her convictions for burglary in the first degree,  
willful injury resulting in bodily injury, going armed with intent, and robbery in the  
first degree, contending the evidence was not sufficient to support the guilty  
verdicts. **AFFIRMED.**

Jack E. Dusthimer, Davenport, for appellant.

Thomas J. Miller, Attorney General, Cristen Douglass, Assistant Attorney  
General, Michael Walton, Acting County Attorney, and Gerald Feuerbach,  
Assistant County Attorney, for appellee.

Considered by Huitink, P.J., and Miller and Eisenhauer, JJ.

**MILLER, J.**

Monsheeka White appeals her convictions for burglary in the first degree, willful injury causing bodily injury, going armed with intent, and robbery in the first degree, contending the evidence was not sufficient to support the guilty verdicts. We affirm.

The record reveals the following facts. On October 22, 2005, White came from her residence in Moline, Illinois, to spend the afternoon and evening with her friend Kenyasha Webb at Webb's Davenport, Iowa, apartment. She informed Webb her van was being repaired while she was there in Davenport. White and Webb had been friends for over four years, talked almost every day, and White frequently visited Webb's apartment. Webb's boyfriend, Joseph Ball, was also there because he had come up from his residence in Quincy, Illinois, to spend the weekend with Webb. On the day in question the three went shopping in Rock Island, Illinois. While in Illinois, White was asked if she wanted to be dropped off at her apartment because they were going to be close to it and Webb and Ball had changed their weekend plans and decided to return to Quincy that night for a party instead of staying at Webb's apartment in Davenport. White declined the offer, stating that either her boyfriend, Latron Gant, or the person who was fixing her van would be picking her up after the repairs were done. Accordingly, White returned to Webb's apartment in Davenport with Webb and Ball.

At some point after the three returned, Webb went upstairs to shower and pack some clothes for their overnight trip to Quincy. Webb testified she believed

she locked the front door either before or as she went upstairs. However, Ball testified he went out the front door multiple times during that time period to use his cell phone and smoke cigarettes. Both Ball and Webb stated that White was on her cell phone quite a bit after they returned from Illinois, including a number of calls shortly before 6:00 p.m., but were not sure who she was talking to. Ball testified that during the last call he heard White state, "Call me when you coming down 63rd Street."

Shortly after 6:00 p.m. two men burst into Webb's apartment through the front door. One was White's boyfriend, Gant, and the other was an unidentified masked man. They did not knock or announce their entry, and the door was apparently unlocked. Gant was carrying a "long gun." It is disputed where White was when the two men entered, either on the couch or standing by the front door. Webb was struck on the side of her head. Ball was struck multiple times about the head with a flashlight and gun and ordered to the ground. White was not struck or harmed in any way. Gant asked Ball where the drugs and money were. Ball told Gant the drugs were in the duffle bag by the door. Ball was a known drug dealer and in fact had approximately \$2,700 worth of powdered cocaine in his bag. Gant took the cocaine from the bag. The masked man took approximately fifty to sixty dollars out of Ball's pocket and took Ball's cell phone from the clip on his hip.

Ball testified that at some point Gant made some sort of head gesture to White motioning toward the front door and White got up. White apparently did not speak the entire time the robbery and assaults were going on. It is

undisputed Gant said to take all the phones in the apartment. However, it is unclear whether he was speaking to White or the masked man. Webb stated she saw White grab either the house phone or her cell phone or both off the table. White and the masked man then apparently left the apartment around the same time, although it is disputed precisely who left first and which door each left out of. At that point Gant was still in the apartment and told Ball to get up and go upstairs. Ball got up, began to run, and Gant shot him once in the buttocks.

Ball and Webb then went out the front door to call for help. Webb testified she saw White's white van "driving down the street fast" on 61st Street "coming from the back from behind" her apartment. She stated she was familiar with White's van, as she had ridden in it a number of times, and recognized the van in question as White's. Webb saw three heads in the van and could identify one of the three as White's head. Ball testified he also saw the white van when he went outside to call for help. He saw the masked man get in the passenger side of the van and saw Gant running behind it to catch up. He stated it appeared to be White's van, but admitted he did not see the van leave or which direction it went.

Approximately twelve days after the incident in question, White and Gant came into contact with police officers in St. Louis, Missouri. Gant was arrested for an outstanding warrant. White gave the officers false information regarding her identity. Gant identified the white van in the area as his "girlfriend's." After further investigation and talking with the Davenport police regarding Gant, the St. Louis police went back and arrested White and impounded the white van. The police searched both the van and White's Moline, Illinois, apartment. Three cell

phones were found in the van and one on the bed in the apartment. The phone found at White's apartment was similar to the one of the phones taken from Webb's apartment, but it was never confirmed to be one of the phones taken during the robbery. The evidence showed the phones identified as White's and Gant's had contact at least ten times on the day of the robbery, including calls at 5:18 p.m., 5:41, 5:53, 6:02, 6:07, 6:08 and 6:11. The police were dispatched to Webb's apartment at 6:16 p.m.

The State charged White with burglary in the first degree (Count 1), in violation of Iowa Code section 713.3(2005), willful injury causing serious injury (Count 2), in violation of section 708.4(1), and going armed with intent (Count 3), in violation of section 708.8. An amended trial information was filed approximately two weeks before trial adding the charge of robbery in the first degree (Count 5), in violation of sections 711.1 and 711.2. The State prosecuted White on the theories of aiding and abetting and joint criminal conduct.

White made a motion for judgment of acquittal, which was considered to have been made at both the end of the State's case and the conclusion of all the evidence, contending the evidence was insufficient for the jury to find her guilty beyond a reasonable doubt on all charges. The court denied the motion. The jury found White guilty as charged on counts one, three, and five, and of the lesser included offense of willful injury causing bodily injury on count two. The court sentenced White to a term of incarceration of no more than twenty-five years on both the burglary and robbery convictions, to a term of no more than

five years on both the willful injury and going armed with intent convictions, and ordered all the sentences to be served concurrently.

White appeals her convictions, contending there was not sufficient evidence to support the verdicts of guilty against her. She does not contest the fact that Gant and the masked third person committed the crimes as charged, only that the evidence was not sufficient to prove she aided and abetted those crimes. She argues the lack of evidence applies equally to all the convictions, and makes a combined argument as to all of them.

Our scope of review of sufficiency-of-evidence challenges is for correction of errors at law. *State v. Lambert*, 612 N.W.2d 810, 813 (Iowa 2000). In reviewing such challenges we give consideration to all the evidence, not just that supporting the verdict, and view such evidence in the light most favorable to the State. *Id.* A jury's findings of guilt are binding on appeal if supported by substantial evidence. *State v. Leckington*, 713 N.W.2d 208, 213 (Iowa 2006). If a rational trier of fact could conceivably find the defendant guilty beyond a reasonable doubt, the evidence is substantial. *Lambert*, 612 N.W.2d at 813.

“Inherent in our standard of review of jury verdicts in criminal cases is the recognition that the jury was free to reject certain evidence, and credit other evidence.” *State v. Arne*, 579 N.W.2d 326, 328 (Iowa 1998). “A jury is free to believe or disbelieve any testimony as it chooses and to give as much weight to the evidence as, in its judgment, such evidence should receive.” *State v. Liggins*, 557 N.W.2d 263, 269 (Iowa 1996). Direct and circumstantial evidence are equally probative. Iowa R. App. P. 6.14(6)(p); *State v. Knox*, 536 N.W.2d 735,

742 (Iowa 1995). Inferences are a staple of our adversary system of fact-finding. *State v. Simpson*, 528 N.W.2d 627, 632 (Iowa 1995).

The court instructed the jury on the law concerning aiding and abetting with the following instruction:

All persons involved in the commission of a crime, whether they directly commit the crime or knowingly “aid and abet” its commission, shall be treated in the same way.

“Aid and abet” means to knowingly approve and agree to the commission of a crime, either by active participation in it or by knowingly advising or encouraging the act in some way before or when it is committed. Conduct following the crime may be considered only as it may tend to prove the defendant’s earlier participation. Mere nearness to, or presence at, the scene of the crime, without more evidence, is not “aiding and abetting.” Likewise, mere knowledge of the crime is not enough to prove “aiding and abetting.”

The court also instructed the jury on the law concerning joint criminal conduct with the following instruction:

When two or more persons act together and knowingly commit a crime, each is responsible for the other’s acts during the commission of the crime or departure from the scene of the crime. The defendant’s guilt is the same as the other person’s unless the acts could not reasonably be expected to be done in aiding the commission of the crime.

For the following reasons, we conclude there is sufficient evidence in the record from which a reasonable jury could conclude that White, at the least, knowingly approved and agreed to the burglary and robbery before, during and after they were committed, and thus could find her guilty of aiding and abetting the commission of those crimes.

White stayed with Ball and Webb the entire afternoon and early evening on the date in question prior to the crimes, and thus was able to know their

whereabouts at all times. She declined their offer to drop her off at her apartment in Moline when they were very close to it, despite the fact Webb and Ball told her they had decided to go out of town that evening and would not be in Davenport, and White had no independent means of transportation at that point. Instead she chose to return to Davenport with Webb and Ball. White told conflicting stories about who was going to pick her up after her van's brakes were fixed, telling Webb it was going to be the van repairman while telling Ball it was going to be Gant. Once the three were back in Davenport and Webb and Ball began to get ready to leave for Quincy, there was a flurry of calls between White and Gant, with calls made at 5:18, 5:41, 5:53, 6:02, 6:07, 6:08, and 6:11 p.m. The police were dispatched to Webb's apartment at 6:16 p.m. Thus, White's last conversation with Gant appears to have occurred immediately before he and the masked man burst through Webb's apartment door. The fact White insisted on staying with Webb and Ball and the evidence of the phone records support a legitimate inference from which a reasonable jury could conclude White stayed with Webb and Ball to keep track of their whereabouts all afternoon and early evening, and then called Gant to alert him of their change in plans for the night.

In addition, shortly before Gant arrived at Webb's apartment Ball heard White on her cell phone saying, "Call me when you coming down 63rd Street." Webb testified that she usually kept her front door locked and that she locked it either before or just as she went upstairs to get ready to leave for Quincy. Ball testified he was in and out the front door several times to talk on his cell phone and to smoke prior to the robbery and initially did not lock the door as he re-

entered the apartment. However, he testified that Webb eventually told him she keeps the door locked and to lock it behind him and he thereafter did so. Furthermore, Webb testified that White was standing near the front door when the two men burst into the apartment, although Ball's testimony is that White was sitting on a couch. Thus, a reasonable jury could infer from the evidence that White either let Gant and the masked man into the apartment or unlocked the door for them.

Once the two men were inside, White did nothing to stop them from beating Webb and Ball. She simply stood by silently and watched her best friend get hit. White apparently said nothing during the entire incident and was not harmed by the men in any way. After Gant went through Ball's duffle bag and stole his cocaine, Ball testified he saw Gant nod towards the door to White and White then got up. Gant then stated, "grab the cellphones and the house phone." Although it is unclear whether he was speaking to White or to the masked man, White grabbed at least one of the phones off the table before leaving the apartment at about the same time as the masked man left.

Gant then ordered Ball to get up. Ball got up and as he began to run Gant shot him in the buttocks. Thus, White neither left, intervened, nor protested when she saw Gant beat and rob her friend and her friend's boyfriend. White then aided Gant by complying with his order to take phones from the apartment, leaving Ball and Webb no way to call for help, and leaving at approximately the same time as the masked man left. Based on this evidence, a rational jury could

find White actively aided and abetted Gant in the commission of the burglary and robbery.

Finally, the jury was free to consider White's conduct after the crimes, only as it may tend to prove her earlier participation in the burglary and robbery. We believe that White's actions after those crimes can reasonably be viewed as proving her earlier participation in the burglary and robbery. It is undisputed that White's white van was used as the getaway car for Gant and the masked man. Both Webb, who had seen and ridden in the van several times, and Ball, saw the white van speeding away as they ran out the front door to get help. Ball testified he saw the masked man get in the passenger side of the white van and saw Gant running behind trying to catch up to get in the van. Neighbors across the street similarly saw two men run and get into the back of a white van and the van take off quickly. Webb saw the van come from behind her apartment driving fast and saw three heads in the van. Webb testified that White was one of the three heads. Thus, although there was no testimony specifically identifying White as driving the van, based on the evidence presented a rational factfinder could infer that White was the one driving the getaway car. Driving a getaway vehicle can constitute substantial evidence that a crime was committed with the driver's "knowledge and encouragement" and thus support convictions on the theory of aiding and abetting. *State v. Turner*, 345 N.W.2d 552, 556 (Iowa Ct. App. 1983).

Furthermore, White left the scene of the crime with Gant, stayed with him afterward, let him use her van as the getaway vehicle or actually drove it herself as the getaway vehicle, and then left the state with him to go to St. Louis,

Missouri, where she was arrested with him two weeks after the crime. White initially lied to St. Louis police about her identity, but was later affirmatively identified, by a tattoo of the name “Latron” on her neck, as the person who had been with Gant at and immediately after the burglary and robbery. A subsequent search of the white van, which White admitted to the St. Louis police was hers, revealed documents in both her name and Gant’s name as well as three cell phones found in the glove compartment. The later search of White’s Moline apartment yielded a phone similar to one taken from Webb’s apartment on the day of the crimes. Accordingly, we conclude a reasonable jury could see White’s actions after the crimes as further proof of her participation as an aider and abettor in the burglary and robbery.

For all the reasons set forth above, we conclude that given the proof of White’s presence, countenance, and conduct before, during and after the burglary and robbery, there was sufficient evidence that a reasonable jury could find White guilty beyond a reasonable doubt as an aider and abettor in those crimes. *See State v. Jefferson*, 574 N.W.2d 268, 277 (Iowa 1997).

White argues only that there is insufficient evidence to support the verdicts of guilty against her. Her argument appears to focus on a claim that there is no substantial evidence that she aided and abetted the commission of the crimes of which she was convicted. She makes no separate or express argument concerning the trial court’s instruction on joint criminal conduct. For the reasons we have stated, the jury could reasonably find that White aided and abetted a burglary and robbery committed by Gant. The jury could also reasonably find it

was not unreasonable for White to expect both that Gant or an accomplice might be armed and that bodily injury might occur, thus supporting White's convictions for going armed with intent and willful injury causing bodily injury under a joint criminal conduct theory.

The trial court did not err in denying White's motion for judgment of acquittal. There is substantial evidence in the record to support White's convictions.

**AFFIRMED.**