

**IN THE COURT OF APPEALS OF IOWA**

No. 9-431 / 08-1232  
Filed July 2, 2009

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

**vs.**

**CHARLES ALLEN HARVEY,**  
Defendant-Appellant.

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Appeal from the Iowa District Court for Johnson County, Douglas S. Russell, Judge.

A defendant appeals from his convictions of third-degree burglary, possession of burglar's tools, second-degree theft, and fourth-degree criminal mischief. **AFFIRMED.**

Mark C. Smith, State Appellate Defender, and E. Frank Rivera, Assistant Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Linda J. Hines, Assistant Attorney General, Janet M. Lyness, County Attorney, and David V. Tiffany, Assistant County Attorney, for appellee.

Considered by Sackett, C.J., and Vogel and Miller, JJ.

**VOGEL, J.**

Following a jury trial, Charles Harvey was convicted of third-degree burglary in violation of Iowa Code sections 713.1 and 713.6A(1) (2007), possession of burglary tools in violation of Iowa Code section 713.7, second-degree theft in violation of Iowa Code sections 714.1(1) and 714.2(2), and fourth-degree criminal mischief in violation of Iowa Code sections 716.1 and 716.6. On appeal, he claims there was insufficient evidence to support his convictions. Our review is for errors at law. Iowa R. App. P. 6.4. “If the jury’s verdict is supported by substantial evidence, it is binding on the court.” *State v. Corsi*, 686 N.W.2d 215, 218 (Iowa 2004).

Harvey essentially argues that although he was in the area, he did not burglarize a store. However, witnesses saw a man exit from the passenger side of what appeared to be a brown SUV. The man, after retrieving something from the SUV, pried open the back door of a store with a large tool and then got back into the SUV. Shortly thereafter, the SUV returned to the same place, and the same man entered through the same door which he had pried open. After calling 911, the witnesses watched the man leave the store and police officers apprehend him. The man identified himself as Charles Harvey.

Additionally, the safe in the store had been unbolted from the floor and moved from an office toward the back door. There were fibers stuck in one of the safe’s jagged bolts. Those fibers were similar to fibers from Harvey’s brown gloves that had a hole in the left thumb, and which he was wearing when arrested. Police officers also apprehended the driver of the Blazer and discovered that the Blazer was registered to Harvey. Numerous tools, including

two crowbars, were found within the vehicle. Upon our review, we find there was sufficient evidence to support Harvey's convictions. Further, we have considered Harvey's pro se arguments and find they were either waived or are without merit. We affirm pursuant to Iowa Court Rule 21.29(1)(a), (b), (c), and (e).

**AFFIRMED.**