

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT JACKSON

AUGUST SESSION, 1996

**FILED**  
Feb. 4, 1997  
Cecil Crowson, Jr.  
Appellate Court Clerk

STATE OF TENNESSEE, )

Appellee, )

VS. )

KERRY WHITEHEAD, )

Appellant. )

C.C.A. NO. 02C01-9509-CC-00263

HARDEMAN COUNTY

HON. JON KERRY BLACKWOOD  
JUDGE

(Sufficiency of Evidence)

FOR THE APPELLANT:

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FOR THE APPELLEE:

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OPINION FILED \_\_\_\_\_

AFFIRMED PURSUANT TO RULE 20

JERRY L. SMITH, JUDGE

## ORDER

In this appeal Appellant maintains the evidence is insufficient to support the verdict in his case. Appellant was convicted by a jury of aggravated burglary and theft under \$500. He was sentenced to three years incarceration for the aggravated burglary and ordered to serve six months in confinement followed by probation. Appellant received a six month sentence for the misdemeanor theft. The misdemeanor sentence was ordered to run concurrently with the felony sentence.

On appeal Appellant claims the evidence against him is not sufficient to convince any rational trier of fact that Appellant is guilty beyond a reasonable doubt. See, State v. Evans, 838 S.W.2d 185, 191 (Tenn. 1992). Appellant also claims that even if the testimony of his accomplice is sufficient, in the general sense, to sustain these convictions, the accomplice testimony is not corroborated sufficiently to form the basis of the convictions. See, State v. Adkisson, 899 S.W.2d 626, 643 (Tenn. Crim. App. 1994) (holding a criminal defendant cannot be convicted on the uncorroborated testimony of an accomplice.)

Appellant's accomplice testified that he, Appellant and a third individual drove in the accomplice's truck to the residential area where Appellant lived. After driving around for approximately two hours, the trio broke into a home and stole various items of personal property. Appellant was a full participant in the criminal acts. The home burglar alarm frightened the burglars and they drove away. As they fled they encountered the private security guard for the residential area who attempted to block their escape. The burglars were able to elude the

guard and they drove Appellant home. As the accomplice and the other man were leaving the residential area moments later they were arrested by police. Appellant was arrested at his home. Police found property stolen in the burglary in the accomplice's truck and along the road.

Other witnesses placed the trio together in the accomplice's truck less than two hours before the burglary. Within a few minutes of the burglary a witness saw a man matching the description of Appellant driving the accomplice's truck toward the home which was burgled. Minutes after the burglar alarm sounded the security guard saw the truck with three men in it moving very fast away from the burgled home. He tried to stop the truck but the three men escaped him.

We think the evidence in this case is sufficient to corroborate the testimony of Appellant's accomplice. The accomplice testimony directly implicates Appellant as a full participant in the burglary and theft for which he was convicted. Thus, the evidence is sufficient to sustain the verdicts.

The judgments below are affirmed pursuant to Rule 20(b), Rules of the Court of Criminal Appeals.

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JERRY L. SMITH, JUDGE

CONCUR:

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GARY R. WADE, JUDGE

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WILLIAM M. BARKER, JUDGE