#31306-a-PJD
2026 S.D. 53

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

STATE OF SOUTH DAKOTA, Plaintiff and Appellee,

v.

CORY BROMLEY, Defendant and Appellant.

APPEAL FROM THE CIRCUIT COURT OF
THE FIRST JUDICIAL CIRCUIT
UNION COUNTY, SOUTH DAKOTA

THE HONORABLE TAMI A. BERN
Judge

JUSTINE AVTJOGLOU of
South Dakota Office of
Indigent Legal Services
Sioux Falls, South Dakota

Attorneys for defendant and appellant.

MARTY J. JACKLEY
Attorney General

MATTHEW W. TEMPLAR
Assistant Attorney General
Pierre, South Dakota

Attorneys for plaintiff and appellee.

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#31306

DEVANEY, Justice

[¶1.] A jury found Cory Bromley guilty as an aider and abettor of several offenses stemming from a home invasion by two masked men who robbed the homeowner at gunpoint, taking his wallet and cash. Bromley appeals to this Court, claiming the evidence was insufficient to sustain his convictions. We affirm.

Factual and Procedural Background

[¶2.] Kyle Tifft met Bromley in 2018. Although Tifft had not seen him for a couple years, they reconnected when Bromley reached out to him in early February 2025. On February 28, 2025, Bromley spoke with Tifft and they arranged for Bromley to go to Tifft's house in Alcester, South Dakota, that night, where Bromley would sell drugs to Tifft and they would consume some. When they talked, Tifft told Bromley he was at a casino.

[¶3.] At 1:04 a.m. on March 1, Bromley texted Tifft to tell him he was on his way. When he asked if Tifft was still at the casino, Tifft responded that he was not. Bromley asked him for his address and Tifft provided it and told Bromley that he lived on a one-way street. Moments later, Bromley drove past Tifft's house, so Tifft sent him texts stating, "[t]urn around" and "[k]eep coming end of the block." When Bromley arrived, he parked his Dodge Dakota pickup on the street in front of the house. Video camera footage from Tifft's front door security camera shows that at 1:14:50 a.m., Bromley then walked toward Tifft, who was waiting outside at the front door. As Bromley approached, he and Tifft both looked down the street to the

right and noticed a man running across the street in the distance.[1] The two went inside the house and downstairs to the basement. While they were downstairs, Tifft noticed Bromley was using his phone and received a text message. Soon afterward, Tifft heard thuds coming from upstairs and his girlfriend, Michelle McFarland, who was on the main floor getting ready for bed, was yelling.

[¶4.] Two masked men had entered through the front door at 1:28:11 a.m., with handguns drawn.[2] They encountered McFarland, pointing their guns and yelling for her to get on the floor. One of the gunmen, later identified as Damion Williams, demanded her purse and punched and kicked her as she attempted to call 911 in the bedroom. He pointed the gun at her and pulled the trigger, but the gun jammed.

[¶5.] Tifft ran upstairs from the basement and into the kitchen, where the second intruder ordered him at gunpoint to "freeze." Hearing Tifft, Williams left McFarland in the bedroom and came up behind Tifft, ordering him to his knees and demanding his wallet. As Tifft knelt, he gave Williams his brown leather wallet, which contained his driver's license, Social Security card, and $400 to $450 in cash, and said, "Don't shoot me." Williams stood behind him and fired his gun, shooting

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1. The video admitted at trial does not contain footage of Bromley driving past the house as noted in their text exchange. But based on Tifft's text telling him to "turn around" and "keep coming," and the direction that Bromley's pickup is parked, it is apparent that Bromley had come from the direction in which the person can be seen running across the street.

2. A second video clip taken from the front door security camera shows two armed intruders approaching from the left side of the house and entering through the front door. They have coverings over their noses and mouths and are wearing dark-colored gloves.

Tifft in the back of the head. The bullet grazed Tifft's scalp and travelled through the kitchen floor and lodged in a floor joist. Williams and the second gunman fled out the front door and ran toward the backyard. Bromley came upstairs from the basement and ran out the back door at 1:29:38 a.m., and he continued running to the end of the backyard where he then turned to the right and ran behind a fence or structure.[3] According to Tifft, a few minutes later, Bromley got in his pickup and drove away. Tifft testified that after the robbery, Williams and the other gunman broke into the garage of a farmhouse outside of town and stole a vehicle.

[¶6.] In response to McFarland's 911 call, law enforcement soon arrived at Tifft's home. Deputy Evan Spindler spoke to McFarland and Tifft, who described what happened. Tifft told the deputy that Bromley had come to his home right before the robbery; however, when asked, Tifft did not say anything about the intended drug deal. Tifft provided screenshots of the text messages he had with Bromley just before he arrived, as well as the video footage from the home security cameras.

[¶7.] After viewing the security camera video, Tifft identified the person who robbed and shot him as Williams, someone he had known since 2015 and who was a friend of Bromley's. The other masked gunman was never identified. Deputy Spindler was later able to confirm, based on a GPS tracking device Williams wore

3. Bromley's exit was captured on the back door security camera and that video clip was admitted at trial. One of the responding officers, Deputy Evan Spindler, testified at trial that he viewed the front door security camera footage showing that the two gunmen ran out the front door, made a left, and then ran toward the back of the house. For reasons not explained in the record, this footage of the gunmen's departure was not introduced at trial.

because he was on parole, that he was at Tifft's home between 1:15 a.m. and 1:30 a.m. on March 1.

[¶8.] The next day, Bromley returned to Tifft's home to talk to him. He claimed he had nothing to do with the incident the night before and he also asked Tifft if he had left his cell phone at Tifft's house. Bromley repaid Tifft for some of the money Tifft had given him for the drugs, as Bromley left the scene with both the drugs and the money that night. Tifft testified at trial that he felt Bromley's visit was an attempt "to make himself look good" and to distance himself from what happened.

[¶9.] On March 4, Officer Neilson Conley of the Canton Police Department was looking for Bromley and Williams. Officer Conley was familiar with both men and knew they were friends. Acting on a lead, he went to a residence in Canton, where he encountered Bromley outside. Parked at the residence was a Chevrolet Silverado pickup with a trailer attached. The officer recognized the pickup and trailer as those he had seen a few hours earlier in the town of Hudson at a residence where Williams was staying. The officer asked if Bromley knew where Williams was and told him there was an arrest warrant for Williams regarding a domestic assault against his wife. Bromley told Officer Conley he had just been with Williams at the Hudson residence. He said he got the Chevrolet pickup and trailer from Williams and was going to take them to Sioux Falls for Williams as a favor. Bromley also said he had left his Dodge Dakota pickup for Williams to use, and that he knew Williams was trying to get out of town.

[¶10.] Officer Conley asked Bromley about the robbery in Alcester, and Bromley admitted he was there and said he had "never been so scared in his life" and that he "took off running." The officer asked Bromley if he had a gun, which he denied. When the officer asked Bromley if there would be any reason why his fingerprints would be on any firearms, he replied that it was possible his prints would be on two handguns. Bromley explained that he was with Williams approximately a week before his conversation with Officer Conley on March 4, and Williams showed him two handguns and let him handle them. When the officer asked if Bromley wanted to talk about the robbery, he declined and requested an attorney.

[¶11.] Law enforcement later searched the Chevrolet pickup and discovered Bromley's ID card and debit card, a zippered pouch containing medications prescribed to Williams, a pair of used black gloves that were turned inside out, and an empty brown leather wallet.[4]

[¶12.] Days after the robbery, Bromley's ex-girlfriend, who owned the Dodge Dakota pickup, reported it stolen. It was later recovered in Montana. Williams was eventually found and arrested in Oregon and he faced charges stemming from the events of March 1.

[¶13.] A Union County grand jury indicted Bromley on nine counts relating to the March 1 incident: three counts of first-degree robbery and one count each of first-degree burglary, commission of a felony (kidnapping) while armed with a

4. This wallet was not introduced, nor identified by Tifft, during trial. Officer Conley testified he was unable to verify whether it belonged to Tifft.

firearm, and second-degree kidnapping. He was also indicted on misdemeanor counts of simple assault, petty theft, and intentional damage to property. At Bromley's jury trial, the State proceeded on the theory that Bromley aided and abetted Williams.

[¶14.] At trial, Tifft, McFarland, Deputy Spindler, and Officer Conley testified as to the facts related above. The State also called Supervisory Special Agent Toby Russell of the South Dakota Division of Criminal Investigation who, pursuant to a search warrant, performed a forensic examination and data extractions of a cell phone that law enforcement had seized from Bromley. The search warrant covered the period from February 28 through March 4. The examination revealed the phone was being used during this timeframe by both Williams and Bromley. Agent Russell located numerous texts and Facebook messages associated with a Facebook user account in the name of "CJ Bromle" and separate user accounts associated with Damion Williams that occurred after the robbery. The State introduced screenshots of several of these conversations as exhibits at trial.[5]

[¶15.] Notably, there was a flurry of Facebook Messenger chats sent to Bromley starting just hours after the robbery:

3/1	5:26 a.m.	From Williams: "No message content to display."

5. The texts Tifft showed Deputy Spindler on his phone, which reflected his conversation with Bromley on March 1 as Bromley was arriving at Tifft's house before the robbery, were not found on the phone seized from Bromley. This is consistent with Tifft's testimony that Bromley came to his home the day after the robbery looking for his phone. No other phone associated with Bromley was discovered or searched during the investigation.

3/1	7:13 a.m.	From someone with a screen name of "BZtwisted Jester": "Damian wants to kno if ur good, or if ur home?"
3/1	8:27:19 a.m.	From Williams: "No message content to display."
3/1	8:27:29 a.m.	From Williams: "Are you food bro?"
3/1	8:27:37 a.m.	From Williams: "Good bro"
3/1	8:35 a.m.	From Williams: "No message content to display."
3/1	8:48 a.m.	From Williams: "No message content to display."

Agent Russell explained that the "No message content to display" phrase indicates the message is no longer available. This occurs as a result of a Facebook Messenger feature that causes the content to disappear either automatically after the recipient reads the message, or when the sender deletes it.

[¶16.] Bromley first responded to Williams at 12:43 p.m. that day, when he messaged Williams with "Ya I Don't have my P," followed by "Phone." In two messages sent at 12:44 p.m., Bromley responded to BZtwisted Jester and said, "I got pulled over" and "had to stay in that town."

[¶17.] The messages to and from Bromley continued throughout March 1 and 2. Many of them contained the "no content" statement, although not all. For instance, on March 2, Williams messaged Bromley at 8:51 a.m., stating, "I need my stuff out of your truck asap my wallet is in there I leave today." After a series of no content messages from Williams, Bromley responded, "I got u let me get up and around and I'll call u." This was followed by several more messages from Williams, including one saying, "Yo let's drive there I need like 700$ it 5 tanks of gas." Bromley responded, offering to meet Williams and suggesting the location.

[¶18.] Agent Russell's forensic examination of the phone also uncovered numerous texts. Among these was a text from Williams on the morning of March 3, in which Williams said he had "just filled up so we're taking off at 11:00." Later that afternoon, Williams texted Bromley, "Hey bro can I again you please check on the mustang dog *I want to go like it's getting too intense for me*." (Emphasis added.) A while later, Williams sent Bromley a text asking him to purchase a phone card for him, followed by another text that read, "I'm going to get a new number so I can use my phone all the time." Bromley replied, saying, "Yeah, that's a Good idea and then remember, do not give your number out to anybody who would gave your number to the cops." Around this same time, Williams sent Bromley a Facebook message telling him, "Yo it's Damian I made a fake Facebook and that's how you can reach me I'm logged out all my Google s*** and my Facebook."

[¶19.] After the State completed its case-in-chief, the defense rested without calling witnesses. Thereafter, Bromley moved for judgment of acquittal. After hearing arguments of counsel, the circuit court granted Bromley's motion for judgment of acquittal as to four of the counts and denied it as to the other five counts. The court noted that it was apparent the State's case rested entirely on an aiding and abetting theory. It dismissed two of the robbery counts as being duplicative of the first one; it also dismissed the simple assault count, which alleged an attempt to injure McFarland, as well as the intentional damage to property count, on the bases that there was no evidence Bromley knew Tifft's girlfriend would be there and no evidence of the value of any property damage.

[¶20.] In its closing argument, the State began by noting that there was no question that the charged crimes occurred; the only question for the jury was whether Bromley aided and abetted Williams in committing them. The State then argued the evidence showed that Bromley assisted Williams by, among other things, setting up a meeting with Tifft so they could get into his house, driving Williams and the other perpetrator to the house, and communicating with Williams via text after entering the house. The State further argued that Bromley knew Williams had guns and pointed to Bromley's actions and communications with Williams after the crimes as evidence that Bromley was Williams' partner and had planned the crimes in advance.

[¶21.] In Bromley's closing argument, his counsel did not deny that Williams committed the crimes against Tifft but argued there was insufficient evidence that Bromley helped him, claiming it was just "a coincidence" that the events occurred at the time Bromley was there and Bromley's mere presence at the scene and the fact he was friends with Williams is not enough to convict him as an aider and abettor. Counsel argued there was no proof that Bromley had the specific intent to help Williams commit a theft or a kidnapping or that he knew Williams would use a gun. The jury returned guilty verdicts on all five counts.

[¶22.] The circuit court imposed concurrent penitentiary sentences of twenty years for the robbery and five years for the commission of a felony with a firearm. The court sentenced Bromley to twenty years each for the burglary and kidnapping convictions, with these sentences fully suspended and ordered to be served concurrently with each other but consecutively to the other sentences. For the

misdemeanor petty theft conviction, the court imposed court costs only. Bromley appeals, claiming the circuit court erred when it denied his motion for acquittal on all counts.

Standard of Review

[¶23.] "[A] motion for judgment of acquittal attacks the sufficiency of the evidence." *State v. Clemensen*, 2025 S.D. 68, ¶ 22, 28 N.W.3d 902, 911 (citation omitted). "We review a denial of a motion for judgment of acquittal de novo." *State v. Braveheart*, 2026 S.D. 36, ¶ 27, 37 N.W.3d 277, 282 (citation omitted). The standards governing our review are well established. "In measuring the sufficiency of the evidence, we ask whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *Id.* ¶ 28, 27 N.W.3d at 283 (citation omitted). Further, "we will not resolve conflicts in the evidence, assess the credibility of witnesses, or evaluate the weight of the evidence." *Id.* (citation modified). "Instead, we accept the evidence and the most favorable inferences fairly drawn therefrom, which will support the verdict." *Id.* (citation omitted).

Analysis and Decision

Aiding and abetting

[¶24.] The State's theory of culpability for each count on which Bromley was convicted rests entirely on its claim that Bromley aided and abetted Williams in the commission of the charged crimes. "Any person who, with the intent to promote or facilitate the commission of a crime, aids, abets, or advises another person in planning or committing the crime, is legally accountable, as a principal to the

crime." SDCL 22-3-3. "To be guilty of aiding and abetting, the evidence must show the principal offender committed all the elements of the underlying offense." *State v. Jucht*, 2012 S.D. 66, ¶ 22, 821 N.W.2d 629, 634 (citation modified).

[¶25.] In *Jucht*, we clarified that "an aider and abettor must act with the mental culpability required for the commission of the underlying crime committed by the principal." *Id.* ¶ 26, 821 N.W.2d at 635. We have also held that "[a]ll elements of a crime, including intent . . ., may be established circumstantially." *State v. Otobhiale*, 2022 S.D. 35, ¶ 38, 976 N.W.2d 759, 772 (quoting *State v. Jensen*, 2007 S.D. 76, ¶ 9, 737 N.W.2d 285, 288). "[C]ircumstantial evidence is critically important in [determining the intent of an aider and abettor] because a state of the mind is rarely proved by direct evidence." *Id.* (alterations in original) (quoting *Jucht*, 2012 S.D. 66, ¶ 29, 821 N.W.2d at 637). When analyzing the sufficiency of the evidence, we have recognized that "[d]irect and circumstantial evidence have equal weight. In fact, in some instances circumstantial evidence may be more reliable than direct evidence." *State v. Ahmed*, 2022 S.D. 20, ¶ 23, 973 N.W.2d 217, 223 (citation omitted).

[¶26.] With these principles in mind, we turn to Bromley's claims. He "concedes that Williams completed the crimes," but he contends there is insufficient evidence that he aided and abetted Williams in doing so. His primary argument is that the State failed to prove that, through words or conduct, he "in some way acted or advised" Williams. He further argues that the State failed to prove he had the required mental state, particularly with respect to the offenses involving the use of a dangerous weapon and the kidnapping count. Although much of the evidence

supporting the jury's finding that Bromley aided and abetted Williams broadly applies to all the charged offenses, we address, in turn, the elements and requisite intent that must be established for the challenged convictions, beginning with the burglary charge.

First-degree Burglary

[¶27.] "Any person who enters or remains in an occupied structure, with intent to commit any crime, unless the premises are, at the time, open to the public or the person is licensed or privileged to enter or remain, is guilty of first degree burglary if . . . [t]he offense is committed in the nighttime." SDCL 22-32-1(3). The circuit court properly instructed the jury that the State must prove that Bromley "acted with the intent to aid, abet or advise the offender to unlawfully enter or remain in [Tifft's] residence . . . with the specific intent to commit the crime of theft therein[.]" *See State v. Evans*, 2021 S.D. 12, ¶ 33, 956 N.W.2d 68, 81 (noting that first-degree burglary is a specific intent crime).

[¶28.] Consistent with our prior decisions regarding aiding and abetting principles, the circuit court instructed the jury that "[t]he mere presence alone of the defendant at the scene of a crime is not sufficient to make that person an aider and abett[o]r" but that it "is a circumstance which the jury can consider with all of the other facts and circumstances in the case." *See State v. Krueger*, 2020 S.D. 57, ¶¶ 23, 27, 950 N.W.2d 664, 671–72 (citing *State v. Schafer*, 297 N.W.2d 473, 477 (S.D. 1980) (approving a jury instruction containing this language)); *State v. Carter*, 2009 S.D. 65, ¶¶ 55–56, 771 N.W.2d 329, 344. The court further instructed the jury that "[t]he presence of an accused at the scene of a crime, together with evidence of

companionship and conduct before and after the offense is committed, may warrant an inference of guilt." *See Krueger*, 2020 S.D. 57, ¶ 23, 950 N.W.2d at 671; *Schafer*, 297 N.W.2d at 477.

[¶29.] Contrary to Bromley's arguments, he was not "merely present" at the scene of the burglary when it occurred. From our review of the record, there is evidence from which a jury could conclude that Bromley acted with the intent to aid, abet, or advise Williams in the commission of a first-degree burglary—the unlawful entry into Tifft's occupied home, in the nighttime, with the intent to take Tifft's money. It is apparent that Williams' entry into the home did not occur randomly that night or through his efforts alone. Rather, Bromley created the opportunity for Williams and his accomplice to easily enter Tifft's home and to steal his money at a time when it was known that Tifft would be present. Bromley spoke with Tifft, who was at a casino earlier that evening, and made arrangements to go to Tifft's home for the drug deal. A jury could reasonably infer that Bromley helped plan the burglary for this particular evening because Tifft would likely have money in his immediate possession.

[¶30.] It is also reasonable for the jury to have rejected Bromley's argument that it was just a "coincidence" that Williams happened to walk through Tifft's front door at this time of night, with the intent to steal Tifft's money, roughly 13 minutes after Bromley arrived and engaged in a drug transaction with Tifft. The fact that both Williams and Bromley were acquaintances of Tifft also makes the alleged coincidence highly suspect. This sequence of events provides circumstantial

evidence that Bromley and Williams had established a plan to commit a burglary that evening.

[¶31.] The evidence also points to Bromley being the one who brought Williams, who lived in another town, to Tifft's home along with the unnamed perpetrator. When Bromley arrived, he drove past the house, prompting Tifft to tell him, via text, to turn around. Just moments later, after Bromley parked out front, Tifft saw a man running in the area where Bromley likely would have just driven. Given the time of night and other surrounding circumstances, this evidence suggests that Bromley had just dropped off Williams and the other individual down the street so they could get into position. Also, after Williams shot Tifft in the head and left, instead of helping Tifft, Bromley ran out the back door of the house to the end of the backyard. According to Tifft, Bromley drove away in his pickup a few minutes later. The jury could reasonably infer that Williams and his unidentified accomplice stole a vehicle to get away because after Bromley left without them, they had no other ride. Indeed, during oral argument before this Court, Bromley's appellate counsel conceded that there was a reasonable inference, based on the evidence presented at trial, that Bromley gave the other two a ride to Tifft's house that night.

[¶32.] Additionally, the activity between Williams and Bromley after they left Tifft's home is highly relevant and supports an inference of guilt. *See Carter*, 2009 S.D. 65, ¶ 57, 771 N.W.2d at 344. Within hours of the burglary, Williams, as well as someone on his behalf, messaged Bromley to find out if he was "good." From this, the jury could conclude that Williams was anxious to learn Bromley's status, since

they had left the scene separately. Notably, the data extraction from Bromley's phone revealed that, although some of these messages remained intact, the content of other messages Williams sent to Bromley within the same time frame was no longer available, suggesting that Williams had deleted them because they were incriminating. Over the next few days, the two were in constant contact and spent time together. Their messages demonstrated subterfuge and urgency as Bromley helped Williams prepare to flee the area. The jury could reasonably consider that such companionship and conduct were not indicative of someone who had been an innocent bystander during the crimes—especially where Bromley made no attempt to distance himself from Williams and, instead, took an opposite approach.

[¶33.] Although Bromley argues the evidence was insufficient because there was no direct evidence in the record of how or when a plan to commit the charged crimes developed or what details he and Williams had agreed upon, this argument "overlook[s] our deferential standard for determining the sufficiency of the evidence." *See Krueger*, 2020 S.D. 57, ¶ 28, 950 N.W.2d at 672 (noting that the Court's "well-established standard forbids us from reweighing evidence the jury has already considered and instead requires us to indulge *every reasonable inference in favor of the jury's verdict*" (emphasis added)). Moreover, "[i]t is the jury's responsibility, not ours, to decide what conclusions should be drawn from evidence admitted at trial." *Braveheart*, 2026 S.D. 36, ¶ 28, 37 N.W.3d at 283 (citation omitted). From our review of the record, the evidence and reasonable inferences surrounding Bromley's acts leading up to, during, and after the burglary are

sufficient to sustain the jury's determination that Bromley aided and abetted Williams in committing the crime of first-degree burglary.

First-degree Robbery

[¶34.] "Robbery is the intentional taking of personal property, regardless of value, in the possession of another from the other's person or immediate presence, and against the other's will, accomplished by means of force or fear of force, unless the property is taken pursuant to law or process of law." SDCL 22-30-1. If the taking is "accomplished by the use of a dangerous weapon," it is "robbery in the first degree." SDCL 22-30-6.

[¶35.] In addition to instructing the jury on the elements of first-degree robbery, the circuit court instructed the jury that "[t]he evidence must show beyond a reasonable doubt that [Bromley] acted with the knowledge and intention of helping [Williams] commit the crime of Robbery in the First Degree." Based on the same evidence related above with respect to whether Bromley aided and abetted first-degree burglary, there is sufficient evidence to support the jury's determination that Bromley aided and abetted Williams in the intentional taking of Tifft's property from his person by means of force or fear of force.

[¶36.] Because Bromley was charged with aiding and abetting *first-degree* robbery, the principal offender must have used a dangerous weapon. While there is no dispute that Williams and his unidentified accomplice both used firearms in the commission of the robbery, Bromley argues there is insufficient evidence to show that he knew in advance that they would use a dangerous weapon to commit the robbery. To support his argument, he cites *Rosemond v. United States*, 572 U.S. 65

(2014), a case involving an alleged violation of 18 U.S.C. § 924(c), which prohibits the use or carrying of a firearm during a crime of violence or drug trafficking. In that case the United States Supreme Court held that in order to convict the defendant of aiding and abetting such offense, the government must show the defendant had advance knowledge that the offender would be armed. *Id.* at 78. The State does not dispute this principle and likewise cites *Rosemond* in its appellate brief.

[¶37.] As the *Rosemond* Court noted, proof of such knowledge stems from the requirement that an aider and abettor must have "a state of mind extending to the entire crime." *Id.* at 75–76. The Court further explained that "[a]n intent to advance some different or lesser offense is not, or at least not usually, sufficient: Instead, the intent must go to the specific and entire crime charged[.]" *Id.* at 76. The Court noted that this "intent requirement [is] satisfied when a person actively participates in a criminal venture with full knowledge of the circumstances constituting the charged offense." *Id.* at 77. In the case of a violation of the federal law at issue, the Court held that because the defendant took part in a drug deal knowing his confederate would carry or use a gun, he intended the commission of an *armed* drug deal. *Id.* at 77–78; *see State v. Henderson*, 908 N.W.2d 868, 876 (Iowa 2018) (holding, in a case involving a first-degree robbery charge which requires the use of a dangerous weapon, that "the State must prove the alleged aider and abettor had knowledge that a dangerous weapon would be or was being used," and

explaining that "[o]therwise, the aider and abettor may have knowledge or intent to commit *a* robbery, but not *first-degree* robbery") (citation omitted).[6]

[¶38.] This reasoning applied in *Rosemond* aligns with our discussion in *Jucht* when we clarified that an aider and abettor must possess the same "underlying mental state required of the principal." *Jucht*, 2012 S.D. 66, ¶ 27, 821 N.W.2d at 636. When doing so, we cited secondary sources noting that every federal appellate court and the majority of state courts have "adopted the requirement that an accomplice be shown to have intended that the principal succeed in committing the charged offense." *Id.* (citations omitted). Applying this reasoning to the first-degree robbery charge here, we conclude that to convict Bromley for aiding and abetting first-degree robbery, the State had to prove he had advance knowledge that a dangerous weapon would be used in the commission of the robbery.

[¶39.] Under the circumstances here, it was reasonable for the jury to determine that Bromley intended to aid Williams in committing not just a robbery, but a robbery in which a dangerous weapon would be used. As noted above, the evidence supports a conclusion that just a few days after Williams showed Bromley two handguns and let him handle them, Bromley gave Williams and his other accomplice a ride to Tifft's residence as part of a concerted effort to accomplish a

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6. Bromley relies on *State v. Henderson*, 908 N.W.2d 868 (Iowa 2018), in support of his argument that there was insufficient evidence to show he was aware Williams would use a gun during the crimes. But, on this point, *Henderson* is distinguishable. In that case, the defendant was charged with aiding and abetting an armed robbery of a pharmacy based on his role as a getaway driver. The evidence showed that Henderson's and the perpetrators' plan was to use a threatening note during the robbery and *not* use weapons, and Henderson was driving a different vehicle than the one in which the perpetrator who had brought a gun was riding. *Id.* at 870–71.

robbery. The evidence showed that both of Bromley's passengers entered Tifft's home while masked and brandishing guns. Given the purpose for which Bromley brought the two individuals along, it is reasonable to conclude that he would have seen them with their masks and guns in the pickup as they prepared for the robbery, which occurred just minutes after Bromley entered the home to engage in the prearranged drug transaction. When viewing the evidence in the light most favorable to the prosecution, we conclude that the jury could infer from the timing and circumstances surrounding this dangerous endeavor that Bromley knew, when he dropped off his passengers, that they were armed and intended to use firearms to compel Tifft to turn over his money. "This Court will not set aside a verdict if the evidence, including the circumstantial evidence and reasonable inferences drawn therefrom, sustains" the jury's guilty verdict. *State v. Krouse*, 2022 S.D. 54, ¶ 40, 980 N.W.2d 237, 238 (citation modified). We therefore affirm the first-degree robbery conviction.

Second-degree Kidnapping

[¶40.] Under SDCL 22-19-1.1(2), "[a]ny person who unlawfully holds or retains another person . . . [t]o facilitate the commission of any felony or flight thereafter . . . is guilty of kidnapping in the second degree." To convict Bromley of kidnapping, the State had to present sufficient evidence that he intended to aid Williams in the commission of this crime, i.e., the unlawful holding or retaining of Tifft for the purpose of facilitating any felony or flight thereafter. Bromley does not

contest whether a kidnapping of Tifft occurred.[7] Rather, he contends the evidence was insufficient to prove that he knew or intended that Williams or the other gunman would unlawfully confine Tifft.[8] For the same reasons addressed above, we disagree.

[¶41.] The sequence of events that occurred inside Tifft's home resulted in the commission of multiple criminal offenses, including the kidnapping and robbery felonies. The question here is whether Bromley intended that Williams succeed in committing these offenses. Because the jurors could reasonably infer that Bromley knew that guns would be used to accomplish the overall objective, i.e., a theft, they could likewise infer that Bromley knew the guns would be used to hold and retain Tifft in order to force him to hand over his wallet and money. We therefore conclude that the evidence was sufficient to sustain Bromley's kidnapping conviction.

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7. The State suggests Bromley's claim that "Tifft's brief confinement during the robbery was no more likely part of a premeditated plan than a spontaneous reaction that was incidental to the underlying offenses" constitutes a challenge to whether the elements of the underlying crime of kidnapping had been committed. The State then asserts that because such claim was not made below, it is waived. We see this comment by Bromley differently. As Bromley conceded below, and in his appellate brief, he is not claiming that the underlying crimes were not committed. The reference in his brief to the confinement being incidental to the underlying crimes was followed by an argument oriented to his claim that there was a lack of evidence that he intended to aid and abet a kidnapping.

8. With respect to the kidnapping charge, Bromley does not argue that there was insufficient evidence to prove he acted with the specific intent to facilitate a felony.

Other offenses

[¶42.] Much of the same evidence discussed in our above analysis applies to the other two charges on which Bromley was convicted. With respect to the charge of commission of a felony while armed with a firearm, the State alleged in the indictment that the felony associated with this charge was kidnapping. Because we have concluded the evidence was sufficient to support the jury's determination that Bromley aided and abetted a kidnapping and that he had advance knowledge that Williams and his other accomplice would use guns, the evidence is also sufficient to support the jury's verdict that Bromley aided and abetted Williams' commission of a felony while armed with a firearm. For similar reasons, the evidence is sufficient to sustain the jury's guilty verdict on the petty theft charge, which required the State to prove that Bromley aided and abetted the taking or exercise of unauthorized control over Tifft's money with the specific intent to deprive him of such.

[¶43.] We affirm on all counts.

[¶44.] JENSEN, Chief Justice, and SALTER, MYREN, and GUSINSKY, Justices, concur.