

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JAMES GREGORY OWENS,

Defendant-Appellant.

UNPUBLISHED

April 23, 2009

No. 282548

Cass Circuit Court

LC No. 07-010088-FH

Before: Saad, C.J., and Jansen and Hoekstra, JJ.

PER CURIAM.

Defendant appeals his jury trial convictions of operating or maintaining a methamphetamine laboratory, MCL 333.7401c(1)(a), and possessing chemical or laboratory equipment to manufacture methamphetamine, MCL 333.7401c(1)(b). For the reasons set forth below, we affirm.

Defendant argues that the prosecutor presented insufficient evidence to support his convictions.¹ MCL 333.7401c(1)(a) provides that a person shall not “own, possess, or use a vehicle, building, structure, place, or area that he or she knows or has reason to know is to be used as a location to manufacture a controlled substance in violation of section 7401.” “Manufacture” is defined as “the production, preparation, propagation, compounding, conversion or processing of a controlled substance, directly or indirectly by extraction” or “chemical synthesis.” MCL 333.7401c(7)(c). Methamphetamine is listed as a schedule two controlled substance under MCL 333.7214(c)(ii).

The evidence presented at trial showed that defendant possessed or used the motel room. Indeed, numerous witnesses testified that defendant lived in the room with his girlfriend and her daughter. Further, the jury could reasonably infer from the evidence that defendant knew or had reason to know that the room “[was] to be used as a location to manufacture” methamphetamine.

¹ When reviewing a claim based on the sufficiency of the evidence, we view the evidence in the light most favorable to the prosecution. *People v Wolfe*, 440 Mich 508, 513-516; 489 NW2d 748 (1992), amended 441 Mich 1201 (1992). We will not interfere with the jury’s role of determining the weight of the evidence or the credibility of witnesses. *People v Avant*, 235 Mich App 499, 506; 597 NW2d 864 (1999).

MCL 333.7401c(1)(a). “Circumstantial evidence and reasonable inferences arising from that evidence can constitute satisfactory proof of the elements of a crime.” *People v Lee*, 243 Mich App 163, 167-168; 622 NW2d 71 (2000). Evidence showed that police found all components necessary to make methamphetamine in the motel room. Moreover, the presence of used coffee filters containing pseudoephedrine residue as well as partial containers of sulfuric acid, lye, and Coleman fuel constituted circumstantial evidence that many of the items were already used to produce methamphetamine. Police also found intact pseudoephedrine pills, unused lithium batteries, and dimethylsulfonemethane, along with numerous other items and pieces of equipment that suggests that someone intended to produce another batch of methamphetamine in the room.

Defendant admitted to Trooper John Moore that all of the incriminating items needed for methamphetamine production found in the motel room belonged to him. Furthermore, at trial, defendant and his girlfriend testified that the items belonged to defendant and that defendant used them. Although defendant testified that he used each of the items found in the room for their legal, legitimate purposes, the prosecution’s witnesses testified that the fact that all the items were found together indicated that methamphetamine production occurred in the motel room. *Avant, supra* (“[q]uestions of credibility are left to the trier of fact and will not be resolved anew by this Court”). Viewed in the light most favorable to the prosecution, this evidence was sufficient to prove that defendant knew or had reason to know that the motel room was to be used to manufacture methamphetamine.

Contrary to defendant’s assertion, the fact that no methamphetamine was found in the room is not dispositive. The statute does not require the prosecution to prove that police found methamphetamine and Lieutenant Dale Hinz testified that it is very common in small, clandestine laboratories for the producer to use all of the methamphetamine as soon as it is produced.

The evidence was also sufficient to convict defendant of possessing chemical or laboratory equipment to manufacture methamphetamine. MCL 333.7401c(1)(b) provides:

- (1) A person shall not do any of the following:
 - (b) Own or possess any chemical or any laboratory equipment that he or she knows or has reason to know is to be used for the purpose of manufacturing a controlled substance in violation of section 7401

The statute does not require that the police find “specialized” equipment or equipment that may *only* be used for the production of a controlled substance. Instead, “ ‘[l]aboratory equipment’ ” means any equipment, device, or container used or intended to be used in the process of manufacturing a controlled substance, counterfeit substance, or controlled substance analogue.” MCL 333.7401c(7)(b).

Lieutenant Hinz and Officer Antwan Bell both testified that the equipment found in defendant’s motel room is used in the process of manufacturing methamphetamine. As discussed, defendant lived in the room where the equipment was found and, by his own admission, all of the equipment necessary for the production of methamphetamine belonged to him, including the coffee grinder and soda bottle cap with a hole pierced in it. Further, partially

used containers of chemicals suggested that defendant had already manufactured some methamphetamine at the site, and intact batteries, recently purchased pseudoephedrine capsules, and pseudoephedrine residue in the coffee grinder indicated that defendant planned to manufacture more.

Viewing the evidence in the light most favorable to the prosecution, the prosecution proved that defendant owned or possessed chemical or laboratory equipment to manufacture methamphetamine.

Affirmed.

/s/ Henry William Saad

/s/ Kathleen Jansen

/s/ Joel P. Hoekstra