

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

FLOYD BARNES,

Defendant-Appellant.

UNPUBLISHED
December 8, 2005

No. 257457
Wayne Circuit Court
LC No. 03-008941-01

Before: Smolenski, P.J., and Schuette and Borrello, JJ.

PER CURIAM.

Defendant appeals as of right his jury trial convictions for the manufacture of twenty or more, but less than two hundred plants of marijuana, MCL 333.7401(2)(d)(ii), and possession of a firearm during the commission of a felony, MCL 750.227b. Defendant was sentenced to six months to seven years' imprisonment for the manufacture of marijuana conviction, and to two years' imprisonment for the felony-firearm conviction. We affirm.

I. FACTS

On November 15, 2002, a building caught on fire and a firefighter who responded to the scene observed defendant acting suspiciously and hiding something in a brush pile. A police officer was called to the scene and found defendant hiding plants, which the officer identified as being marijuana plants. The officer went inside the building, which had been partially destroyed by the fire, and discovered what he described as one of the biggest marijuana grow operations he had ever encountered. The officer testified that defendant was operating a hydroponics lab, which contained marijuana plants in various stages of the growth process. The building also contained a "drying room," where police found large marijuana plants. Loose marijuana was also found in a lean-to, outside of the building. The officer testified that the exact number of plants at the building was difficult to determine because of the damage from the fire, but it was definitely over twenty plants. One of the large plants was sent to the crime lab and tested positive as marijuana. The police also recovered other equipment that was commonly used in the manufacturing of marijuana. Defendant testified that he was a gardener who had a hydroponics operation that was not operational at the time of the fire. Defendant also testified that he found the marijuana growing on his property and was only storing it in the barn.

II. SUFFICIENCY OF EVIDENCE

Defendant's sole issue on appeal is that there was insufficient evidence to support his conviction for manufacture of marijuana. We disagree.

A. Standard of Review

When reviewing a claim of insufficient evidence, this Court must view the evidence de novo, in the light most favorable to the prosecutor, and determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. *People v Tombs*, 472 Mich 446, 459; 697 NW2d 494 (2005). Questions of credibility and intent should be left to the trier of fact to resolve. *People v Avant*, 235 Mich App 499, 506; 597 NW2d 864 (1999).

B. Analysis

Defendant's conviction for unlawful manufacture of marijuana required proof beyond a reasonable doubt that: (1) defendant manufactured a controlled substance, (2) the manufactured substance was marijuana, and (3) defendant knew that he was manufacturing marijuana. MCL 333.7401(2)(d)(ii); CJI2d 12.1.

The evidence produced was sufficient with regard to all elements. Defendant was discovered attempting to hide marijuana that he had retrieved from his burning building. Inside that building, the police found evidence of an extensive marijuana hydroponics system. The system included sodium lights taking the place of windows, so no one could see inside, a scale useful for weighing out the marijuana, and a generator for powering the operation. There were trays with growing media that took the place of soil and five-gallon jugs for the plants that outgrew the trays. The building also contained large pots set in troughs and set up to be watered regularly. The building also contained a room for drying the marijuana.

Most importantly, the police discovered marijuana plants in various stages of growth throughout the manufacturing process. There was loose marijuana found and small marijuana plants growing in jugs. Inside pots set in troughs rigged for irrigation, the police found large marijuana plants and the stems of other plants that had been cut off. The parts of the plants that had been cut off were found outside with defendant. The police also found large marijuana plants in the drying room, which was the last stage of the process. Deferring to the jury's superior position to judge witness credibility and viewing the evidence in a light most favorable to the prosecution, we conclude that sufficient evidence was presented to support the finding that defendant knowingly manufactured marijuana. *Tombs, supra* at 459; *Avant, supra* at 506.

Affirmed.

/s/ Michael R. Smolenski
/s/ Bill Schuette
/s/ Stephen L. Borrello