

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

UNPUBLISHED
October 13, 2011

v

KEITH ANTHONY JACKSON,

Defendant-Appellant.

No. 299026
Kalamazoo Circuit Court
LC No. 2009-001048-FH

Before: MARKEY, P.J., and SERVITTO and RONAYNE KRAUSE, JJ.

PER CURIAM.

Defendant appeals by right his jury-trial conviction of operating/maintaining laboratory involving methamphetamine. MCL 333.7401c(2)(f). Defendant was sentenced to 72 to 360 months as a second offender, MCL 333.7413(2). We affirm.

The only issue on appeal is whether there was sufficient evidence at trial to show that defendant knew or had reason to know the pseudoephedrine pills he possessed would be used to “manufacture” a controlled substance, methamphetamine. See MCL 333.7401c(7)(c). This Court reviews de novo a claim of insufficient evidence. *People v Lueth*, 253 Mich App 670, 680; 660 NW2d 322 (2002). We must review the record in a light most favorable to the prosecution to determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. *People v Malone*, 287 Mich App 648, 654; 792 NW2d 7 (2010). “This Court will not interfere with the trier of fact’s role of determining the weight of the evidence or the credibility of witnesses.” *People v Kanaan*, 278 Mich App 594, 619; 751 NW2d 57 (2008). To the extent defendant’s argument calls for statutory interpretation, it presents a question of law we review de novo. *Malone*, 287 Mich App at 654.

Defendant was convicted of owning or possessing a chemical or laboratory equipment that he knew or had reason to know would be used for the purpose manufacturing a controlled substance, MCL 333.7401c(1)(b), which involved or was intended to involve the manufacture of

methamphetamine, MCL 333.7401c(2)(f) and MCL 333.7214(c)(ii).¹ The elements of the crime are evident from the statutory language paraphrased above.

Defendant does not dispute that he possessed a chemical, pseudoephedrine pills, and intended to sell the pills. Moreover, the evidence at trial, including defendant's own statement, supported that he planned to sell the pills to a "meth cook." Nevertheless, defendant contends no evidence was presented that shows he knew or had reason to know the pseudoephedrine pills would be used to manufacture methamphetamine as the term "manufacture" is defined by MCL 333.7401c(7)(c), which provides, in relevant part:

"Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis.

While the definition of "manufacture" was not read to the jury, it makes no difference to our resolution of the issue because sufficient evidence was presented to the jury to satisfy the statute's definition of "manufacture." The statute includes three different manufacturing methods: extraction from substances of natural origin, *or* chemical synthesis, *or* by combination of extraction and chemical synthesis. The three methods set forth in the statute are separated by the word "or," which means they are in the alternative. See *People v Neal*, 266 Mich App 654, 656; 702 NW2d 696 (2005). The term "synthesis" is not defined by the statute. "Where a statute does not define one of its terms it is customary to look to the dictionary for a definition." *People v Lee*, 447 Mich 552, 558; 526 NW2d 882 (1994). Synthesis is defined, in relevant part, as:

1. the combining of the constituent elements of separate material or abstract entities into a single or unified entity (opposed to analysis) 2. a complex whole formed by combining. 3. the forming or building of a more complex chemical substance or compound from elements or simpler compounds. [*Random House Webster's College Dictionary* (1997).]

Sufficient evidence was presented at trial to show pseudoephedrine pills are used, by way of chemical synthesis, in the manufacture of methamphetamine. Two expert witnesses testified that pseudoephedrine pills are a precursor to the manufacture of methamphetamine. One expert explained how pseudoephedrine pills are combined with other materials to form methamphetamine. Based on this evidence, a rational jury, viewing the evidence in a light most favorable to the prosecution, could find beyond a reasonable doubt that pseudoephedrine is used to "manufacture" the controlled substance methamphetamine by means of chemical synthesis. Indeed, this Court has recognized that, "[p]seudoephedrine is used to make methamphetamine." *People v Meshell*, 265 Mich App 616, 627; 696 NW2d 754 (2005). Defendant does not dispute that pseudoephedrine is a critical element in the making methamphetamine, but, nevertheless,

¹ The jury was instructed on the elements of both MCL 333.7401c(1)(a) and (b), but this Court finds there was no evidence presented at trial showing defendant's vehicle was going to be "used as a location to manufacture a controlled substance." MCL 333.7401c(1)(a).

asks this Court to narrowly interpret the definition of “manufacture” so as to exclude the role of pseudoephedrine in the production of methamphetamine. We decline to do so.

We conclude that the evidence, viewed in a light most favorable to the prosecution, was sufficient for a rational jury to convict defendant of possession of a chemical, pseudoephedrine, he knew or had reason to know would be used to manufacture the controlled substance methamphetamine. MCL 333.7401c(1)(b); MCL 333.7401c(2)(f); *Malone*, 287 Mich App at 654.

We affirm.

/s/ Jane E. Markey

/s/ Deborah A. Servitto

/s/ Amy Ronayne Krause