THE STATE OF NEW HAMPSHIRE

SUPREME COURT

In Case No. 2006-0309, State of New Hampshire v. Sean Sewell, the court on April 26, 2007, issued the following order:

Following a jury trial, the defendant, Sean Sewell, was convicted of possession of cocaine and conspiracy to manufacture methamphetamine. He appeals his conspiracy conviction, arguing that the trial court erred in admitting the statements of a co-defendant and in denying his motion to dismiss based upon the insufficiency of the evidence. We affirm.

We will assume without deciding that the defendant has preserved his argument that the trial court erred in admitting the statements of his co-conspirator and that their admission was in error. We agree with the State, however, that any error was harmless. See State v. Pseudae, 154 N.H. 196, 202 (2006) (error is harmless if on appeal State demonstrates beyond a reasonable doubt that verdict was not affected by error). The jury heard testimony from other witnesses that the co-conspirator was manufacturing the methamphetamine for the defendant and that the defendant had provided money for materials needed for its production. Therefore, even if admission of the statements was erroneous, the statements were cumulative and any error was harmless. See id.

The defendant also argues that the evidence was insufficient to prove that he "agreed with one or more of the co-defendants to commit the crime of manufacturing methamphetamine." To prevail on a challenge to the sufficiency of the evidence, the defendant must show that, viewing the evidence in the light most favorable to the State, no rational trier of fact could have found guilt beyond a reasonable doubt. State v. Goupil, 154 N.H. 208, 224 (2006). All reasonable inferences derived from the evidence are viewed in the light most favorable to the State. Id.

The jury heard evidence that the defendant had provided money for the supplies required to manufacture the drugs. While there was conflicting evidence on this issue, the conflict went to the credibility of the witnesses, an issue to be resolved by the jury. See State v. Hull, 149 N.H. 706, 712 (2003). The State also presented evidence to indicate that the defendant was waiting for the manufacturing process to be completed and that he arrived at the premises after being so informed. When he arrived, he brought two containers identical to the ones found at the scene of the manufacture that were used to package the drugs. All of this evidence, viewed in the light most favorable to the State, could support the conclusion that the defendant was guilty of conspiracy to manufacture

methamphetamine.

Affirmed.

DALIANIS, DUGGAN and GALWAY, JJ., concurred.

Eileen Fox,
Clerk