

IN THE COURT OF APPEALS OF IOWA

No. 6-430 / 05-1562

Filed June 28, 2006

STATE OF IOWA,
Plaintiff-Appellee,

vs.

EDWARD DALE MILES,
Defendant-Appellant.

Appeal from the Iowa District Court for Polk County, Michael D. Huppert,
Judge.

Edward Miles appeals from the judgment and sentence entered upon his
conviction for conspiracy to manufacture methamphetamine. **REVERSED.**

Linda Del Gallo, State Appellate Defender, and Shellie L. Knipfer,
Assistant State Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Robert P. Ewald, Assistant Attorney
General, John P. Sarcone, County Attorney, and Stephan Bayens, Assistant
County Attorney, for appellee.

Considered by Mahan, P.J., and Hecht and Eisenhauer, JJ.

EISENHAUER, J.

Edward Miles appeals from the judgment and sentence entered upon his conviction for conspiracy to manufacture methamphetamine. He contends there is insufficient evidence to support his conviction. We review claims of insufficient evidence for errors at law. *State v. Rohm*, 609 N.W.2d 504, 509 (Iowa 2000).

The uncontroverted facts are as follows: On January 31, 2005, Miles attempted to shoplift from Target three boxes of cold medicine that contained psuedoephedrine, a precursor to the manufacture of methamphetamine. When Miles was stopped by the store's loss-prevention officer, he apologized for the attempted theft and stated he had a problem with drugs. Miles told the police officers called to the scene that he stole the cold medicine for another person in exchange for the cancellation of a \$20 debt Miles owed. Miles stated he "assumed" the other person would use the cold medicine to make methamphetamine. Each box contained ninety-six tablets at thirty milligrams of psuedoephedrine per tablet, enough psuedoephedrine to manufacture approximately four grams of methamphetamine.

Miles was arrested and charged with conspiracy to manufacture methamphetamine in violation of Iowa Code section 124.401(1)(c)(6) (2005), possession of psuedoephedrine in violation of section 124.401(4), and theft of psuedoephedrine in violation of section 714.7C. He was convicted on all three counts.

Miles contends there is not substantial evidence to support his conviction for conspiracy to manufacture methamphetamine. "Substantial evidence is evidence upon which a rational finder of fact could find a defendant guilty beyond

a reasonable doubt.” *Rohm*, 609 N.W.2d at 509. Conspiracy is defined as follows:

1. A person commits conspiracy with another if, with the intent to promote or facilitate the commission of a crime which is an aggravated misdemeanor or felony, the person does either of the following:

a. Agrees with another that they or one or more of them will engage in conduct constituting the crime or an attempt or solicitation to commit the crime.

b. Agrees to aid another in the planning or commission of the crime or of an attempt or solicitation to commit the crime.

2. It is not necessary for the conspirator to know the identity of each and every conspirator.

3. A person shall not be convicted of conspiracy unless it is alleged and proven that at least one conspirator committed an overt act evidencing a design to accomplish the purpose of the conspiracy by criminal means.

4. A person shall not be convicted of conspiracy if the only other person or persons involved in the conspiracy were acting at the behest of or as agents of a law enforcement agency in an investigation of the criminal activity alleged at the time of the formation of the conspiracy.

Iowa Code § 706.1. Miles argues there was insufficient evidence to establish the first, second, and fourth elements of section 706.1.

We conclude there is not substantial evidence to support Miles’s conviction of conspiracy to manufacture methamphetamine. The State failed to prove beyond a reasonable doubt that Miles agreed with another person that one or more of them would manufacture, attempt to manufacture, or solicit another to manufacture methamphetamine. The only evidence of any agreement between Miles and another was Miles’s statement involving the elimination of a \$20 debt in exchange for providing the psuedoephedrine. To infer more is to speculate, suspect, or conject. *State v. Webb*, 648 N.W.2d 72, 76 (Iowa 2002).

Accordingly, Miles's conviction and sentence for conspiracy to manufacture methamphetamine is reversed.

REVERSED.