

**Commonwealth Of Kentucky**

**Court of Appeals**

NO. 2004-CA-002538-MR

EARNEST DEAN HENDRICKSON

APPELLANT

v.

APPEAL FROM MCCRACKEN CIRCUIT COURT  
HONORABLE R. JEFFREY HINES, JUDGE  
ACTION NOS. 03-CR-00378-002

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION  
AFFIRMING

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BEFORE: COMBS, CHIEF JUDGE; DYCHE AND HENRY, JUDGES.

DYCHE, JUDGE: Earnest Dean Hendrickson was tried by jury and found guilty of manufacturing and possession of methamphetamine (enhanced by possession of a firearm), and felony and misdemeanor possession of other controlled substances. His sentences totaled eighteen years' imprisonment. He appeals.

Hendrickson's sole issue before this Court is that the trial court erred in denying his motion for a directed verdict of acquittal at the close of the Commonwealth's case and again at the close of all evidence. Hendrickson insists that there was insufficient evidence to support his conviction for

manufacturing methamphetamine because the Commonwealth failed to prove that he possessed all of the chemicals necessary for the drug's manufacture. KRS 218A.1432(1)(b). See Kotila v. Commonwealth, 114 S.W.3d 226 (Ky. 2003). Hendrickson states that there was no proof that he possessed any of these specific chemicals without one of which manufacture is not possible: ether or camp fuel, lithium batteries, or anhydrous ammonia.

In reviewing the denial of a directed verdict, it is incumbent upon an appellate court to view the evidence in a light most favorable to the party opposing the motion. Commonwealth v. Benham, 816 S.W.2d 186, 187 (Ky. 1991). Albeit there was a lack of proof of a necessary chemical, Hendrickson cannot prevail because the statute allows for conviction if there is proof of possession of all the equipment necessary for manufacturing methamphetamine. Also, conviction is appropriate if there is proof of actual manufacture. KRS 218A.1432(1)(a); Fulcher v. Commonwealth, 149 S.W.3d 363 (Ky. 2004). The evidence presented in this case supports a conviction under either of those theories. The trial court properly denied the motions for directed verdict.

The judgment of the McCracken Circuit Court is affirmed.

ALL CONCUR.

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