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HB _____ 191

2003 MT 346, *; 318 Mont. 489, **;
81 P.3d 488, ***; 2003 Mont. LEXIS 806

STATE OF MONTANA, Plaintiff and Respondent, v. GREGORY DEAN BALDWIN, Defendant and Appellant.

No. 02-331

SUPREME COURT OF MONTANA

2003 MT 346; 318 Mont. 489; 81 P.3d 488; 2003 Mont. LEXIS 806

April 3, 2003, Submitted on Briefs
December 16, 2003, Decided

SUBSEQUENT HISTORY: Released for Publication January 2, 2004.

PRIOR HISTORY: APPEAL FROM: District Court of the Eighth Judicial District, In and for the County of Cascade, Cause No. CDC-01-233(1), The Honorable Kenneth R. Neill, Judge presiding.

DISPOSITION: Affirmed.

CASE SUMMARY

PROCEDURAL POSTURE: Defendant was convicted in the District Court of the Eighth Judicial District, in and for the County of Cascade (Montana), of criminal production or manufacture of dangerous drugs, criminal possession of dangerous drugs, and criminal possession of drug paraphernalia. Defendant appealed.

OVERVIEW: Defendant argued, inter alia, that the trial court erred by admitting testimony of his wife and that the error was not harmless. The supreme court disagreed. The admission of the wife's testimony was harmless error. Other testimony was sufficient to support defendant's conviction. Two witnesses testified regarding the "wart remover" or "cat urine" smell coming from the garage, which was consistent with the production of methamphetamine. Both were able to positively identify defendant as one of the men working in the garage that day. One witness testified that defendant showed her the methamphetamine. Another witness testified that defendant helped produce the methamphetamine in the garage. The witnesses testified about events they observed in their home connecting defendant to the methamphetamine lab. Therefore, the error was harmless.

OUTCOME: The judgment was affirmed.

CORE TERMS: methamphetamine, spouse, identification, garage, impermissibly suggestive, spousal, marriage, married, motion to exclude, lab, lineup, photo, substantial likelihood, misidentification, irreparable, totality, law enforcement, dangerous drugs, solemnization, gave rise, harmless, message, standard of review, marital relationship, common law marriage, competency, defendant-spouse, conversation, participated, credibility

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