

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED
EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);
Ariz. R. Crim. P. 31.24



DIVISION ONE
FILED: 12/10/09
PHILIP G. URRY, CLERK
BY: DN

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

STATE OF ARIZONA,)
) No. 1 CA-CR 09-0055
 Appellee,)
) DEPARTMENT D
 v.)
) MEMORANDUM DECISION
 LAWRENCE MARTIN HEREDIA,)
) (Not for Publication -
 Appellant.) Rule 111, Rules of the
) Arizona Supreme Court)

Appeal from the Superior Court in Yuma County

Cause No. S1400CR200701671

The Honorable Andrew W. Gould, Judge

AFFIRMED

Terry Goddard, Attorney General Phoenix
By Kent E. Cattani, Chief Counsel,
Criminal Appeals Section
Attorney for Appellee

Yuma County Public Defender Yuma
By Sara Xochitl Orozco, Deputy Public Defender
Attorneys for Appellant

G E M M I L L, Judge

¶1 Lawrence Martin Heredia ("Heredia") appeals from his conviction and sentence for possession of dangerous drugs, a

class four felony. Heredia's counsel filed a brief in compliance with *Anders v. California*, 386 U.S. 738 (1967), and *State v. Leon*, 104 Ariz. 297, 451 P.2d 878 (1969), stating that she has searched the record and found no arguable question of law and requesting that this court examine the record for reversible error. See *Smith v. Robbins*, 528 U.S. 259 (2000). Heredia was afforded the opportunity to file a supplemental brief *in propria persona* but did not do so. For the following reasons, we affirm.

FACTS AND PROCEDURAL HISTORY

¶12 "We view the facts and all reasonable inferences therefrom in the light most favorable to sustaining the convictions." *State v. Powers*, 200 Ariz. 123, 124, ¶ 2, 23 P.3d 668, 669 (App. 2001).

¶13 On December 18, 2007, law enforcement officers served a search warrant on a house in Yuma, Arizona. The purpose of the warrant was to search for indicia of methamphetamine sales. Prior to serving the search warrant, the officers were provided with the identity and photograph of X.R., the individual who was residing at the house and who was the subject of the search.

¶14 The officers arrived at the house at approximately two o'clock in the afternoon. They knocked on the door of the house but nobody answered. The officers then entered the house and determined that no one was inside.

¶15 After it was determined that there was no one inside the house, Officer C.O. returned to his unmarked police vehicle parked outside the house to take off his ballistic vest. As Officer C.O. was in his vehicle, he noticed a green truck traveling north towards him. He recognized the driver of the truck as X.R. Officer C.O. also observed a passenger and a dog inside the truck. The truck, however, did not stop at the house and continued past Officer C.O.

¶16 Officer C.O. followed the green truck in his unmarked vehicle. He radioed one of the other officers assisting in the search at the house and informed the officer that X.R. had driven by the house. Officer C.O. continued to follow behind the green truck at a "car length" distance.

¶17 A short time later, the green truck came to a stop in the middle of the road. The road was located next to the East Main Canal. Officer C.O. stopped his vehicle directly behind the green truck and activated the vehicle's police lights. The passenger of the truck, whom Officer C.O. identified as Heredia, exited the truck and threw a small black pouch into the canal. Heredia then started to run away. Officer C.O. chased after Heredia and identified himself as a police officer by saying "Police, Stop." Heredia, however, did not stop running.

¶18 Officer C.O. was able to catch up to Heredia after running approximately one hundred feet. Once he reached

Heredia, he pushed Heredia to the ground. Less than a minute later, other police officers arrived at the scene to assist Officer C.O. with Heredia. Once assistance arrived, Officer C.O. went over to the canal and retrieved the black pouch. Inside the pouch, Officer C.O. found plastic baggies. Two of the baggies contained a white crystal substance that Officer C.O. believed to be methamphetamine.

¶9 Later, the white substance in the baggies tested positive for methamphetamine. The amount of methamphetamine in the baggies was determined to be approximately 3.67 grams, a usable quantity.¹ Heredia was indicted on one count of possession of dangerous drugs for sale, a class two felony, and one count of possession of drug paraphernalia, a class six felony.

¶10 After a trial by a jury, Heredia was found not guilty of possession of dangerous drugs for sale and not guilty of possession of drug paraphernalia. Heredia was, however, found guilty of possession of dangerous drugs, a class four felony and a lesser included offense for possession of dangerous drugs for sale. The court suspended imposition of sentence and placed Heredia on probation for three years.

¹ The police officers performing the search weighed the baggies at the house using a scale found inside the house. According to one of the officers, the total weight of the baggies was about six or seven grams.

¶11 Heredia timely appeals his conviction and sentence. We have jurisdiction pursuant to Arizona Revised Statutes ("A.R.S.") sections 12-120.21(A)(1) (2003), 13-4031 (2001), 13-4033(A)(3) (Supp.2008), and Article 6, Section 9, of the Arizona Constitution.

DISCUSSION

¶12 Having considered defense counsel's brief and examined the record for reversible error, see *Leon*, 104 Ariz. at 300, 451 P.2d at 881, we find none. The sentence imposed falls within the range permitted by law, and the evidence presented supports the conviction. As far as the record reveals, Heredia was represented by counsel at all stages of the proceedings, and these proceedings were conducted in compliance with his constitutional and statutory rights and the Arizona Rules of Criminal Procedure.

¶13 Pursuant to *State v. Shattuck*, 140 Ariz. 582, 584-85, 684 P.2d 154, 156-57 (1984), counsel's obligations in this appeal have ended. Counsel need do no more than inform Heredia of the disposition of the appeal and his future options, unless counsel's review reveals an issue appropriate for submission to the Arizona Supreme Court by petition for review. Heredia has thirty days from the date of this decision in which to proceed, if he desires, with a *pro se* motion for reconsideration or petition for review.

CONCLUSION

¶14 The conviction and sentence are affirmed.

_____/s/_____
JOHN C. GEMMILL, Judge

CONCURRING:

_____/s/_____
PETER B. SWANN, Presiding Judge

_____/s/_____
DIANE M. JOHNSEN, Judge