

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
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IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

STATE OF ARIZONA,) No. 1 CA-CR 09-0652
)
Appellant,) DEPARTMENT C
)
v.) **MEMORANDUM DECISION**
) (Not for Publication -
ARNOLD CHARLES NORIEGA,) Rule 111, Rules of the
) Arizona Supreme Court)
Appellee.)
)
)

Appeal from the Superior Court in Yuma County

Cause No. CR-2008-01077

The Honorable Lawrence C. Kenworthy, Judge

APPEAL DISMISSED

John R. Smith, Yuma County Attorney Yuma
By Roger Nelson, Chief Deputy County Attorney
Deann L. Sandry, Deputy County Attorney
Attorneys for Appellant

Michael Breeze, Yuma County Public Defender Yuma
By Edward F. McGee, Deputy Public Defender
Attorneys for Appellee

D O W N I E, Judge

¶1 Arnold Charles Noriega was charged with various offenses, including possession of marijuana for sale and possession of drug paraphernalia. He moved to suppress evidence seized during a search of his home, arguing the search warrant

was not supported by probable cause. The superior court granted Noriega's suppression motion in a written, signed ruling filed July 23, 2009. Although the court considered dismissing the charges with prejudice, it ultimately dismissed them without prejudice. The State then appealed from both the suppression order and the dismissal order.

¶12 An appeal must be pursued within the time and manner provided by law. *State v. Dawson*, 164 Ariz. 278, 281, 792 P.2d 741, 744 (1990) (citation omitted); *State v. Berry*, 133 Ariz. 264, 266-67, 650 P.2d 1246, 1248-49 (App. 1982). Although the State may appeal a suppression order, see Arizona Revised Statutes ("A.R.S.") section 13-4032(6) (2010),¹ pursuant to Arizona Rule of Criminal Procedure ("Rule") 31.3, "a notice of appeal in a criminal action must be filed within 20 days after the entry of the order from which the appeal is taken." *State v. Fayle*, 114 Ariz. 219, 220, 560 P.2d 403, 404 (1976).

¶13 The superior court filed its signed suppression order on July 23, 2009. The State did not file its notice of appeal until August 25, 2009--more than thirty days later. The appeal is thus untimely as to the suppression order.²

¹ We cite to the current statute as no versions material to this appeal have occurred.

² The State did not file a reply brief and therefore has not addressed Noriega's jurisdictional challenge. Because the suppression order was specifically appealable under A.R.S. § 13-

