

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

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE



DIVISION ONE
FILED: 09/14/2010
RUTH WILLINGHAM,
ACTING CLERK
BY: GH

STATE OF ARIZONA,) 1 CA-CR 09-0820
)
Appellee,) DEPARTMENT A
)
v.) **MEMORANDUM DECISION**
) (Not for Publication -
JOHN REAVES,) Rule 111, Rules of the
) Arizona Supreme Court)
Appellant.)
)

Appeal from the Superior Court in Maricopa County

Cause No. CR2007-171949-001 SE

The Honorable Robert L. Gottsfield, Judge

AFFIRMED

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

James J. Haas, Maricopa County Public Defender Phoenix
By Cory Engle, Deputy Public Defender
Attorneys for Appellant

W I N T H R O P, Judge

¶1 John Reaves ("Appellant") appeals from his convictions
for possession of marijuana and drug paraphernalia and from his

placement on probation. Appellant's counsel has filed a brief in accordance with *Smith v. Robbins*, 528 U.S. 259 (2000); *Anders v. California*, 386 U.S. 738 (1967); and *State v. Leon*, 104 Ariz. 297, 451 P.2d 878 (1969), stating that he has searched the record on appeal and found no arguable question of law that is not frivolous. Appellant's counsel therefore requests that we review the record for fundamental error. See *State v. Clark*, 196 Ariz. 530, 537, ¶ 30, 2 P.3d 89, 96 (App. 1999) (stating that this court reviews the entire record for reversible error). Although this court granted Appellant the opportunity to file a supplemental brief *in propria persona*, he has not done so.

¶2 We have appellate jurisdiction pursuant to the Arizona Constitution, Article 6, Section 9, and Arizona Revised Statutes ("A.R.S.") sections 12-120.21(A)(1) (2003), 13-4031 (2010), and 13-4033(A) (2010). Finding no reversible error, we affirm Appellant's convictions and placement on probation.

I. FACTS AND PROCEDURAL HISTORY

¶3 We review the facts in the light most favorable to sustaining the verdict and resolve all reasonable inferences against Appellant. See *State v. Kiper*, 181 Ariz. 62, 64, 887 P.2d 592, 594 (App. 1994).

¶4 On January 27, 2009, Appellant was charged by information with two counts: the first for possessing or using marijuana, and the second for possessing or using drug

paraphernalia. See A.R.S. §§ 13-3405 (2010), -3415 (2010).¹ Both charges were later designated class one misdemeanors. The case proceeded to a bench trial on August 21, 2009.

¶15 At trial, Tempe Police Officer Timothy Spruyt testified that on March 10, 2007, he stopped a truck for failing to maintain a single lane. Appellant was sitting in the truck's front passenger seat. The officer checked whether the truck's occupants had any outstanding warrants and found one for Appellant. The officer arrested Appellant and searched him incident to that arrest. The search revealed a green leafy substance and pipes with burnt residue in the right front pocket of Appellant's pants. The officer testified that the pipes could be used to ingest drugs, and a criminalist from the Arizona Department of Public Safety testified that the substance was a usable quantity of marijuana. Appellant chose not to testify on his behalf.

¶16 The court found Appellant guilty of both crimes as charged. It suspended sentence on both counts and ordered Appellant to serve two years' probation. Appellant filed a timely notice of appeal.

¹ We cite the current version of the applicable statutes because no revisions material to this decision have occurred.

II. ANALYSIS

¶7 We have reviewed the entire record for reversible error and find none. See *Leon*, 104 Ariz. at 300, 451 P.2d at 881; *Clark*, 196 Ariz. at 537, ¶ 30, 2 P.3d at 96. The evidence presented at trial was substantial and supports the verdict, and Appellant's placement on probation fell within the statutory limits. Appellant was represented by counsel at all stages of the proceedings and was given the opportunity to speak at the sentencing hearing. The proceedings were conducted in compliance with his constitutional and statutory rights and the Arizona Rules of Criminal Procedure.

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

III. CONCLUSION

¶9 Appellant's convictions and placement on probation are affirmed.

_____/S/_____
LAWRENCE F. WINTHROP, Judge

CONCURRING:

_____/S/_____
PATRICIA A. OROZCO, Presiding Judge

_____/S/_____
DANIEL A. BARKER, Judge