DIVISION ONE
FILED: 09/07/2010
RUTH WILLINGHAM, ACTING CLERK
BY: GH

IN THE
COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

STATE OF ARIZONA, Appellee, v. BRIAN COLLON, Appellant.	)	1 CA-CR 09-0840 DEPARTMENT D MEMORANDUM DECISION (Not for Publication - Rule 111, Rules of the Arizona Supreme Court)

Appeal from the Superior Court of Maricopa County

Cause No. CR 2007-119543-001 SE

The Honorable Helene F. Abrams, Judge

AFFIRMED

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

James J. Haas, Maricopa County Public Defender
by Spencer D. Heffel, Deputy Public Defender
Attorneys for Appellant — Phoenix

W E I S B E R G, Judge

¶1 Brian Collon ("Defendant") appeals from his conviction and sentence imposed after a jury trial. Defendant's counsel has filed a brief in accordance with *Anders v. California*, 386

U.S. 738, 744 (1967), and *State v. Leon,* 104 Ariz. 297, 299, 451 P.2d 878, 880 (1969), advising this court that after a search of the entire record on appeal, he finds no arguable ground for reversal. This court granted Defendant an opportunity to file a supplemental brief, but none was filed. Counsel now requests that we search the record for fundamental error. *Anders*, 386 U.S. at 744; *State v. Clark*, 196 Ariz. 530, 537, ¶ 30, 2 P.3d 89, 96 (App. 1999). Finding no reversible error, we affirm.

¶2 We have jurisdiction pursuant to Arizona Revised Statutes ("A.R.S.") sections 12-120.21(A)(1) (2003), 13-4031 and, -4033 (A) (2010).

FACTS AND PROCEDURAL HISTORY

¶3 We review the evidence in the light most favorable to sustaining the verdict. *State v. Arredondo,* 155 Ariz. 314, 316, 746 P.2d 484, 486 (1987). Defendant was indicted for possession or use of dangerous drugs (methamphetamine), a Class 4 felony and possession of drug paraphernalia, a Class 6 felony. The State alleged historical prior felony convictions. Prior to trial, Defendant filed a motion to suppress evidence of the drugs and drug paraphernalia on the ground that he did not consent to a search of his person or of items in his possession. After an evidentiary hearing, the court denied the motion.

¶4 At trial, the following evidence was presented. On the night of March 25, 2007, Officer Ekren of the Mesa Police Department was on patrol. He noticed Defendant and a female riding their bicycles on the road; neither bike had the required head lights. The officer initiated a traffic stop, asked Defendant for identification and ran a records check. When asked, Defendant denied having any drugs or weapons in his possession. The officer asked Defendant if he would empty his pockets and Defendant voluntarily did so.

¶5 In Defendant's left pocket was a cigarette package containing two clear plastic baggies with a white crystal-like substance inside. Based on his training and experience, Officer Ekren believed the substance was methamphetamine. He seized the baggies and placed Defendant under arrest. Defendant told the officer he had taken the drugs from his female friend and intended to dispose of them.

¶6 A criminalist tested the substance in the baggies and determined each contained usable quantities of methamphetamine. After the State rested, the court granted Defendant's Rule 20 motion on the charge of possession of drug paraphernalia.

¶7 Defendant testified that he had confiscated the drugs from his friend because she was a "wreck" from using drugs and that he wanted to help her. He stated he had planned to take

the drugs to a Circle K nearby and flush them down the toilet, but Officer Ekren stopped him before he had a chance to do so. He testified that he told the officer the drugs belonged to his friend, and not to him.

¶8 The jury convicted Defendant of possession or use of dangerous drugs. At sentencing, the State withdrew the allegation of historical prior felony convictions. The court suspended Defendant's sentence, placed him on four years intensive probation with six months of deferred jail time, and ordered him to pay the required fees, fines and surcharges. Defendant filed a timely notice of appeal.

CONCLUSION

¶9 We have read and considered counsel's brief and have searched the entire record for reversible error. *See Leon*, 104 Ariz. at 300, 451 P.2d at 881. We find none. All of the proceedings were conducted in compliance with the Arizona Rules of Criminal Procedure. So far as the record reveals, Defendant was represented by counsel at all stages of the proceedings, there was sufficient evidence for the jury to find that Defendant had committed the offense, and the sentence imposed was within the statutory limits.

¶10 After the filing of this decision, counsel's obligations pertaining to Defendant's representation in this

appeal have ended. Counsel need do no more than inform Defendant of the status of the appeal and of Defendant's future options, unless counsel's review reveals an issue appropriate for submission to the Arizona Supreme Court by petition for review. *See State v. Shattuck*, 140 Ariz. 582, 584-85, 684 P.2d 154, 156-57 (1984). On the court's own motion, Defendant has thirty days from the date of this decision to proceed, if he desires, with a motion for reconsideration or petition for review *in propria persona.*

¶11 Accordingly, we affirm Defendant's conviction and sentence.

/s/_____
SHELDON H. WEISBERG, Judge

CONCURRING:

/s/_____
MICHAEL J. BROWN, Presiding Judge

/s/_____
JON W. THOMPSON, Judge