

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: 10/28/10
RUTH WILLINGHAM,
ACTING CLERK
BY: DLL

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

STATE OF ARIZONA,) No. 1 CA-CR 09-0985
)
Appellee,) DEPARTMENT D
)
v.) **MEMORANDUM DECISION**
) (Not for Publication -
GABRIEL R. BURNS,) Rule 111, Rules of the
) Arizona Supreme Court)
Appellant.)
)
_____)

Appeal from the Superior Court in Maricopa County

Cause No. CR 2006-142986-001 SE

The Honorable Teresa A. Sanders, Judge

AFFIRMED

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

James Haas, Maricopa County Public Defender Phoenix
By Margaret M. Green, Deputy Public Defender
Attorneys for Appellant

B R O W N, Judge

¶1 Gabriel Burns appeals his conviction and sentence for one count of unlawful flight. Counsel for Burns filed a brief

in accordance with *Anders v. California*, 386 U.S. 738 (1967), and *State v. Leon*, 104 Ariz. 297, 451 P.2d 878 (1969), advising that after searching the record on appeal, he was unable to find any arguable grounds for reversal. Burns was granted the opportunity to file a supplemental brief *in propria persona*, but he has not done so.

¶12 Our obligation is to review the entire record for reversible error. *State v. Clark*, 196 Ariz. 530, 537, ¶ 30, 2 P.3d 89, 96 (App. 1999). We view the facts in the light most favorable to sustaining the conviction and resolve all reasonable inferences against Burns. *State v. Guerra*, 161 Ariz. 289, 293, 778 P.2d 1185, 1189 (1989). Finding no reversible error, we affirm.

¶13 Burns was charged with possession or use of dangerous drugs, a class four felony, in violation of Arizona Revised Statutes ("A.R.S.") section 13-3407 (2010) and unlawful flight from a law enforcement vehicle, a class five felony, in violation of A.R.S. § 28-622.01 (2004).¹ The following evidence was presented at trial.

¶14 In May 2006, a Mesa police officer in a marked patrol car observed a blue car making a wide left-hand turn. The officer activated her patrol car's lights and siren, but the car

¹ Absent material revisions after the date of an alleged offense, we cite the statute's current version.

did not stop. She then observed the car disregard two stop signs and exceed the speed limit by approximately twenty miles per hour. The officer lost sight of the car, but other patrol units and an air unit soon located it. The pursuit continued with the car running a red light and continuing to speed. The car eventually stopped and Burns, the driver, was taken into custody. While searching the vehicle, the officer found a "crystal substance" in a bag. A forensic scientist testified that the substance tested as 6.0 grams of methamphetamine.

¶15 A jury found Burns guilty of unlawful flight, but not guilty of possession or use of dangerous drugs. The court sentenced Burns to 1.5 years imprisonment and credited him with 596 days of presentence incarceration credit.

¶16 We have reviewed the entire record for reversible error and find none. See *Leon*, 104 Ariz. at 300, 451 P.2d at 881. All of the proceedings were conducted in accordance with the Arizona Rules of Criminal Procedure. The record shows that Burns was present and represented by counsel at all pertinent stages of the proceedings, was afforded the opportunity to speak before sentencing, and the sentence imposed was within statutory limits. Accordingly, we affirm his conviction and sentence.

¶17 After the filing of this decision, defense counsel's obligations pertaining to Burns' representation in this appeal have ended. Defense counsel need do no more than inform Burns

of the outcome of this appeal and his future options, unless upon review, counsel finds an issue appropriate for submission to the Arizona Supreme Court by petition for review. *State v. Shattuck*, 140 Ariz. 582, 584-85, 684 P.2d 154, 156-57 (1984). Burns has thirty days from the date of this decision to proceed, if he wishes, with a *pro per* petition for review or motion for reconsideration.

/s/

MICHAEL J. BROWN, Presiding Judge

CONCURRING:

/s/

JON W. THOMPSON, Judge

/s/

SHELDON H. WEISBERG, Judge