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Ariz. R. Crim. P. 31.24



DIVISION ONE  
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RUTH WILLINGHAM,  
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IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION ONE

STATE OF ARIZONA, ) No. 1 CA-CR 10-0363  
)  
Appellee, ) DEPARTMENT C  
)  
v. ) **MEMORANDUM DECISION**  
) (Not for Publication -  
JAMIE NICOLE RONK, ) Rule 111, Arizona Rules  
) of Civil Appellate  
Appellant. ) Procedure)  
)  
\_\_\_\_\_ )

Appeal from the Superior Court in Maricopa County

Cause Nos. CR 2009-160842-001 DT

The Honorable Edward O. Burke, Judge

**AFFIRMED**

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

Bruce F. Peterson, Maricopa County Legal Advocate, Phoenix  
By Frances J. Gray, Deputy Legal Advocate  
Attorney for Appellant

Jamie Nicole Ronk, Goodyear  
Appellant

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**D O W N I E**, Judge

¶1 Jamie Nicole Ronk ("defendant") appeals her  
convictions for possession of a dangerous drug for sale,

misconduct involving weapons, and possession of drug paraphernalia. Pursuant to *Anders v. California*, 386 U.S. 738 (1967), and *State v. Leon*, 104 Ariz. 297, 451 P.2d 878 (1969), defense counsel has advised that she has thoroughly searched the record and found no arguable question of law and requests that we review the record for fundamental error. See *State v. Richardson*, 175 Ariz. 336, 339, 857 P.2d 388, 391 (App. 1993). Defendant filed a supplemental brief *in propria persona*. On appeal, we view the evidence in the light most favorable to sustaining the convictions. *State v. Tison*, 129 Ariz. 546, 552, 633 P.2d 355, 361 (1981).

#### **FACTS AND PROCEDURAL HISTORY**

¶12 Police officers received an anonymous complaint of suspected drug activity at a home defendant owned. They began surveillance of the house and observed foot and vehicular traffic. Officers stopped a bicyclist riding away from the house; he had a small baggie with methamphetamine in his hand. When officers returned the bicycle to the house, defendant answered the door, gave the officers Arizona identification, and took the bicycle. A vehicle was stopped and searched after leaving the residence, and officers found a plastic bag containing methamphetamine under the driver's floor mat.

¶13 When officers served a search warrant at the house, defendant answered the door. Two female adults, three male

adults, and a child were present. Officers searched Stephanie W. and found a small baggie of methamphetamine worth approximately \$15-20. In the bedroom, officers saw a mirror with names and small amounts of money written on it, including an entry for "Steph, \$20," that officers believed to be a "ledger" used to record amounts owed by customers to whom drugs had been "fronted." In the top drawer of the bedroom dresser, officers found a black pouch with 2.7 grams of methamphetamine, and a box containing a baggie of 320 milligrams of methamphetamine, a scale, and two little spoons. When an officer told defendant they "found her box," she replied that it was for "personal use." Defendant's identification card was found on top of the bedroom dresser, and a .22 caliber handgun was found in the second drawer with 61 rounds of ammunition. Another .22 caliber handgun was found on a shelf in the bedroom loaded with plastic projectiles. Meth pipes and another baggie of methamphetamine were found in an outside laundry room.

¶14 Defendant was charged with possession of dangerous drugs for sale, a class 2 felony, misconduct involving weapons, a class 4 felony, and possession of drug paraphernalia, a class 6 felony. A jury trial ensued. At the conclusion of the State's case, the court denied defendant's motion for a judgment of acquittal pursuant to Rule 20, Arizona Rules of Criminal Procedure ("Rule"), on the possession for sale charge.

¶15 The jury convicted defendant of all three counts. The court denied her motion for new trial and sentenced her to 5 years on count 1, 1.5 years on count 2, and 6 months on count 3, all mitigated sentences to run concurrently. Defendant received 40 days' presentence incarceration credit.

#### DISCUSSION

¶16 We have read and considered the brief submitted by defense counsel and have reviewed the entire record. *Leon*, 104 Ariz. at 300, 451 P.2d at 881. We find no fundamental error. All of the proceedings were conducted in compliance with the Arizona Rules of Criminal Procedure, and the sentence imposed was within the statutory range. Defendant was present at all critical phases of the proceedings and represented by counsel. The jury was properly impaneled and instructed. The jury instructions were consistent with the offenses charged. The record reflects no irregularity in the deliberation process.

¶17 In her supplemental brief, defendant does not clearly articulate any legal issues for our review or cite relevant legal authority. Merely mentioning an argument is insufficient. Briefs must present significant arguments, supported by authority, setting forth the appellant's position on the issues raised. The failure to so argue a claim usually constitutes abandonment and a waiver of that claim. *State v. Moody*, 208

Ariz. 424, 452 n.9, ¶ 101, 94 P.3d 1119, 1147 n.9 (2004).  
However, in our discretion we address the following issues.

**A. Insufficiency of Evidence**

¶8 Defendant argues there was insufficient evidence to support her conviction for possession of a dangerous drug for sale. Reversible error based on insufficiency of evidence occurs only if there is a complete absence of "substantial evidence" to support the conviction. *State v. Sullivan*, 187 Ariz. 599, 603, 931 P.2d 1109, 1113 (App. 1996). Substantial evidence is such proof that "reasonable persons could accept as adequate and sufficient to support a conclusion of defendant's guilt beyond a reasonable doubt." *State v. Mathers*, 165 Ariz. 64, 67, 796 P.2d 866, 869 (1990) (citation omitted).

¶9 Pursuant to A.R.S. § 13-3407 (2010), the State was required to prove that defendant knowingly possessed a dangerous drug and that possession was for purposes of sale. The State presented substantial evidence regarding these elements. When officers arrived with the search warrant, defendant opened the door. She admitted at trial that she owned the house and was living there. Defendant's identification was found on the dresser where the drugs, scale, and spoons were found, and officers opined that the amount of drugs recovered was consistent with a "street-level" dealer. The officers observed traffic coming and leaving the house in a manner consistent with

drug trafficking, and both people stopped leaving the house were found with methamphetamine.

¶10 Defendant contends that because the evidence was circumstantial, it was insufficient. However, "[t]he probative value of evidence is not reduced because it is circumstantial." *State v. Murray*, 184 Ariz. 9, 31, 906 P.2d 542, 564 (1995). The lack of direct evidence of guilt does not preclude a conviction which may rest solely upon proof of a circumstantial nature. *Tison*, 129 Ariz. at 554-55, 633 P.2d at 363-64.

¶11 Based on the evidence presented, the jury could have reasonably concluded that defendant knowingly possessed a dangerous drug for sale. We will not substitute our judgment for that of the jury. *State v. Williams*, 209 Ariz. 228, 231, ¶ 6, 99 P.3d 43, 46 (App. 2004).

#### **B. Weighing Evidence**

¶12 Defendant argues that the mirror was not used as a drug ledger, that she never said the box containing the scale, drugs, and spoons was for her "personal use," and that people were coming to the house because she had advertised items for sale. Defendant availed herself of the opportunity to testify and present her version of the facts to the jury. The jury was free to accept or reject defendant's version of events. "No rule is better established than that the credibility of the witnesses and the weight and value to be given to their

testimony are questions exclusively for the jury." *State v. Clemons*, 110 Ariz. 555, 556-57, 521 P.2d 987, 988-89 (1974); see also *State v. Lehr*, 201 Ariz. 509, 517, ¶ 24, 38 P.3d 1172, 1180 (2002). A reasonable jury could have found the State's evidence to be more credible.

### **C. Ineffective Assistance of Counsel**

¶13 Defendant also mentions that she advised her attorney that she did not want to testify but that her attorney did not give her an option. Ineffective assistance of counsel claims are properly raised in Rule 32 proceedings. *State v. Spreitz*, 202 Ariz. 1, 3, ¶ 9, 39 P.3d 525, 527 (2002). "Any such claims improvidently raised in a direct appeal . . . will not be addressed by appellate courts regardless of merit." *Id.* We therefore do not address what amounts to defendant's ineffective assistance of counsel claim.

### **D. Other Occupants**

¶14 Defendant also asserts error because no charges were filed against other occupants of the house. Liberally construing this claim as one for selective prosecution, the record does not support it. To prevail on a claim of selective prosecution, an "accused must show: (1) other similarly situated people were not charged with the crime he is accused of; and (2) the decision to charge him with that crime was made based on an impermissible ground," such as race or religion.

*State v. Montano*, 204 Ariz. 413, 428, ¶ 78, 65 P.3d 61, 76 (2003). No such evidence exists in this record.

**CONCLUSION**

¶15 We affirm defendant's convictions and sentences. Counsel's obligations pertaining to defendant's representation in this appeal have ended. Counsel need do nothing more than inform defendant of the status of the appeal and her future options, unless counsel's review reveals 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). On the court's own motion, defendant shall have thirty days from the date of this decision to proceed, if she so desires, with an *in propria persona* motion for reconsideration or petition for review.

/s/

MARGARET H. DOWNIE, Judge

CONCURRING:

/s/

MAURICE PORTLEY, Presiding Judge

/s/

PATRICIA A. OROZCO, Judge