

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: 04/24/2012
RUTH A. WILLINGHAM,
CLERK
BY: sls

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

STATE OF ARIZONA,) No. 1 CA-CR 11-0281
)
Appellee,) DEPARTMENT E
)
v.) **MEMORANDUM DECISION**
)
DAMON DEXTER GRIFFIN,) (Not for Publication -
) Rule 111, Rules of the
Appellant.) Arizona Supreme Court)
)

Appeal from the Superior Court in Mohave County

Cause No. S8015CR201000966

The Honorable Steven F. Conn, Judge

AFFIRMED

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

Mohave County Appellate Defender's Office Kingman
By Jill L. Evans, Deputy Public Defender
Attorneys for Appellant

G E M M I L L, Judge

¶1 Damon Dexter Griffin appeals from his conviction and sentence for possession of dangerous drugs for sale (methamphetamine), a class two felony, and possession of drug

paraphernalia (methamphetamine), a class six felony. Griffin's counsel filed a brief in compliance with *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 and found no arguable question of law and requesting that this court examine the record for reversible error. Griffin was afforded the opportunity to file a *pro se* supplemental brief but did not do so. See *State v. Clark*, 196 Ariz. 530, 537, ¶ 30, 2 P.3d 89, 96 (App. 1999). For the following reasons, we affirm.

FACTS AND PROCEDURAL HISTORY

¶12 "We view the facts and all reasonable inferences therefrom in the light most favorable to sustaining the convictions." *State v. Powers*, 200 Ariz. 123, 124, ¶ 2, 23 P.3d 668, 669 (App. 2001).

¶13 On September 6, 2010, several Bullhead City Police Department officers executed a search warrant on the residence rented and solely occupied by Griffin. Griffin was present, answered the door, and cooperated with the officers. As officers entered his residence, Griffin was handcuffed and Detective G. read Griffin his *Miranda* rights. See *Miranda v. Arizona*, 384 U.S. 436 (1966). Griffin indicated that he understood his *Miranda* rights.

¶14 Detective G. proceeded to question Griffin and Griffin disclosed that he had had a "little bit" of methamphetamine in

his safe. Griffin led police to the safe, provided multiple combinations, and the police ultimately used tools to force the safe open. Inside the safe, officers found two baggies of methamphetamine totaling 1.93 grams, a razor blade, unused baggies, a scale, a mirror with drug residue, multiple glass pipes, and a spoon. Officers also discovered an "IO ME" or "pay/owe" sheet purportedly listing debts owed to Griffin and an additional glass pipe in plain view in Griffin's living room.

¶15 Detective G. reported that during the search, Griffin admitted to selling \$40.00 worth of methamphetamine to "Jim" from the cable company a few days prior. Griffin also reportedly admitted to having previously given methamphetamine to unknown females who had visited him. Further, Griffin reportedly admitted that he purchased one-half to one ounce of methamphetamine from the Las Vegas area once "every couple of months."

¶16 Griffin was tried by jury on March 22 and March 23, 2011. On the first day of trial, the trial court held a voluntariness hearing and found that during the execution of the search warrant, Griffin was *Mirandized*, waived his rights, and voluntarily provided statements to police. During the trial, the state presented a criminalist who testified that the substance found in the two baggies was a combined 1.93 grams of methamphetamine. Detective G. testified that 1.93 grams was

consistent with possession for sale as well as personal use because one-quarter to one-half of a gram was the most common amount of methamphetamine sold in Bullhead City. Detective G. also testified to Griffin's purported admissions, including that he had previously sold \$40.00 of methamphetamine to "Jim," a sale that the state claimed had been recorded on Griffin's "pay/owe" sheet as "Jimbo \$40.00."

¶17 In his defense, Griffin presented testimony from his landlord and himself identifying non-drug related explanations for each entry on the "pay/owe" sheet. Griffin also denied telling Detective G. that he had sold methamphetamine to "Jim" or travelled to Las Vegas to purchase methamphetamine. Griffin further testified that the paraphernalia in his safe was for personal use and not related to resale.

¶18 The jury returned a guilty verdict on both counts, with a special verdict that the paraphernalia involved methamphetamine. At sentencing, the trial court found no aggravating factors and found in mitigation the "minuscule" amount of methamphetamine involved for a sales case and Griffin's lack of previous convictions within the previous ten years. Ultimately, the trial court sentenced Griffin to a mitigated sentence of 5.5 years for possession of dangerous drugs for sale (methamphetamine) and a concurrent mitigated sentence of six months for possession of drug paraphernalia

(methamphetamine), each with thirty days credit for time served.

¶9 Griffin timely appealed. We have jurisdiction pursuant to Article 6, Section 9, of the Arizona Constitution, and Arizona Revised Statutes ("A.R.S") sections 12-120.21(A)(1) (2003), 13-4031 (2010), and 13-4033(A)(1) (2010).¹

DISCUSSION

¶10 Having considered defense counsel's brief and examined the record for reversible error, see *Leon*, 104 Ariz. at 300, 451 P.2d at 881, we find none. The sentence imposed falls within the range permitted by law, and the evidence presented supports the conviction. As far as the record reveals, Griffin was represented by counsel at all stages of the proceedings, and these proceedings were conducted in compliance with his constitutional and statutory rights and the Arizona Rules of Criminal Procedure.

¶11 Pursuant to *State v. Shattuck*, 140 Ariz. 582, 584-85, 684 P.2d 154, 156-57 (1984), counsel's obligations in this appeal have ended. Counsel need do no more than inform Griffin of the disposition of the appeal and his future options, unless counsel's review reveals an issue appropriate for submission to the Arizona Supreme Court by petition for review. Griffin has

¹ We cite to the current versions of the statutes when no revisions material to this decision have occurred since the date of the alleged offense.

thirty days from the date of this decision in which to proceed, if he desires, with a *pro se* motion for reconsideration or petition for review.

CONCLUSION

¶12 The convictions and sentences are affirmed.

_____/s/_____
JOHN C. GEMMILL, Judge

CONCURRING:

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

_____/s/_____
PHILIP HALL, Judge