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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: 03/20/2012  
RUTH A. WILLINGHAM,  
CLERK  
BY: DLL

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION ONE

STATE OF ARIZONA, ) No. 1 CA-CR 11-0293  
)  
Appellee, ) DEPARTMENT E  
)  
v. ) **MEMORANDUM DECISION**  
)  
EMILIA M. CARRILLO, ) (Not for Publication -  
) Rule 111, Rules of the  
Appellant. ) Arizona Supreme Court)  
)

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Appeal from the Superior Court in Maricopa County

Cause No. CR-2010-006471-001 DT

The Honorable James Rummage, Judge *Pro Tempore*

The Honorable Lisa Ann Vandenberg, Judge *Pro Tempore*

**CONVICTIONS AND SENTENCES AFFIRMED**

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Thomas C. Horne, 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 Thomas K. Baird, Deputy Public Defender  
Attorneys for Appellant

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**J O H N S E N**, Judge

¶1 This appeal was timely filed in accordance with *Anders v. California*, 386 U.S. 738 (1967), and *State v. Leon*, 104 Ariz.

297, 451 P.2d 878 (1969), following Emilia M. Carrillo's convictions of possession of a dangerous drug, a Class 4 felony, and possession of drug paraphernalia, a Class 6 felony. Carrillo's counsel has searched the record on appeal and found no arguable question of law that is not frivolous. See *Smith v. Robbins*, 528 U.S. 259 (2000); *Anders*, 386 U.S. 738; *State v. Clark*, 196 Ariz. 530, 2 P.3d 89 (App. 1999). Carrillo was given the opportunity to file a supplemental brief but did not do so. Counsel now asks this court to search the record for fundamental error. After reviewing the entire record, we affirm Carrillo's convictions and sentences.

#### FACTS AND PROCEDURAL HISTORY

¶2 Phoenix police officers pulled over a car for traffic violations.<sup>1</sup> Carrillo was riding in the front seat of the car. When an officer searched her, he found a small pink plastic bag containing some residue that looked like methamphetamine. When he removed the bag from her pocket, Carrillo stated, "That's just paraphernalia. It's empty. There is no meth in there." Officers continued to search the car, and in a jacket belonging to Carrillo, they found a larger plastic bag holding smaller bags containing methamphetamine. Carrillo and the driver of the

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<sup>1</sup> Upon review, we view the facts in the light most favorable to sustaining the jury's verdicts and resolve all inferences against Carrillo. *State v. Fontes*, 195 Ariz. 229, 230, ¶ 2, 986 P.2d 897, 898 (App. 1998).

car both told officers that when the police car had pulled behind them, the driver handed Carrillo the bag and she put it in her jacket.

¶3 After failing to appear for trial despite proper notice, Carrillo was tried in absentia. The jury convicted her of possession of a dangerous drug (methamphetamine) and possession of drug paraphernalia. Carrillo was present for sentencing, and the court suspended imposition of sentences and imposed two years' supervised probation.

¶4 Carrillo 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), 13-4031 and -4033 (2012).<sup>2</sup>

#### DISCUSSION

¶5 The record reflects Carrillo received a fair trial. She was represented by counsel at all stages of the proceedings against her. The court held appropriate pretrial hearings. It did not conduct a voluntariness hearing; however, the record did not suggest a question about the voluntariness of Carrillo's statements to police. See *State v. Smith*, 114 Ariz. 415, 419, 561 P.2d 739, 743 (1977); *State v. Finn*, 111 Ariz. 271, 275, 528 P.2d 615, 619 (1974).

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<sup>2</sup> Absent material revisions after the date of an alleged offense, we cite a statute's current Westlaw version.

¶16 The superior court granted the State's motion to try Carrillo in absentia after making the proper findings, and Carrillo had received notice that if she failed to appear, the trial could proceed without her. The State presented both direct and circumstantial evidence sufficient to allow the jury to convict. The jury was properly comprised of eight members. The court properly instructed the jury on the elements of the charges, the State's burden of proof and the necessity of a unanimous verdict. The jury returned unanimous verdicts, which were confirmed by juror polling. The court received and considered a presentence report in deciding to suspend sentence and impose a term of probation.

#### CONCLUSION

¶17 We have reviewed the entire record for reversible error and find none. See *Leon*, 104 Ariz. at 300, 451 P.2d at 881.

¶18 After the filing of this decision, defense counsel's obligations pertaining to Carrillo's representation in this appeal have ended. Defense counsel need do no more than inform Carrillo of the outcome of this appeal and her future options, unless, upon review, counsel finds "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, Carrillo has 30 days from the date of this decision to proceed, if she wishes, with a *pro per* motion for reconsideration. Carrillo has 30 days from the date of this decision to proceed, if she wishes, with a *pro per* petition for review.

/s/  
DIANE M. JOHNSEN, Presiding Judge

CONCURRING:

/s/  
PATRICIA A. OROZCO, Judge

/s/  
LAWRENCE F. WINTHROP, Chief Judge