

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

FILED BY CLERK

MAY 14 2012

COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

THE STATE OF ARIZONA,)	2 CA-CR 2011-0375
)	DEPARTMENT B
Appellee,)	
)	<u>MEMORANDUM DECISION</u>
v.)	Not for Publication
)	Rule 111, Rules of
JOSEPH DAN-PAUL JENKINS,)	the Supreme Court
)	
Appellant.)	
_____)	

APPEAL FROM THE SUPERIOR COURT OF COCHISE COUNTY

Cause No. CR201000950

Honorable James L. Conlogue, Judge

AFFIRMED

Emily Danies

Tucson
Attorney for Appellant

V Á S Q U E Z, Presiding Judge.

¶1 Following a jury trial, appellant Joseph Jenkins was convicted of knowingly possessing a weapon as a prohibited possessor. *See* A.R.S. §§ 13-3102(A)(4), (K),¹ 13-3101(A)(7)(b), (d). The trial court found Jenkins had two historical prior felony convictions and sentenced him to the presumptive, ten-year sentence. Appellate counsel has filed a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967), and *State v. Clark*, 196 Ariz. 530, 2 P.3d 89 (App. 1999). Counsel states she has reviewed the record in compliance with *Anders* and has been unable to find any arguable questions of law to raise on appeal. She asks us to search the record for fundamental error. Jenkins has not filed a supplemental brief.

¶2 Viewed in the light most favorable to sustaining the verdict, the evidence was sufficient to support the jury's finding of guilt. *See State v. Tamplin*, 195 Ariz. 246, ¶2, 986 P.2d 914, 914 (App. 1999). On November 29, 2010, Jenkins, a convicted felon who was on probation, possessed a handgun.

¶3 During our review of the record, however, we discovered that one of the two jury instructions stated that the offense occurred on November 29, 2009, rather than 2010. Apparently reading directly from the written instruction, the judge likewise stated the wrong year when he read that instruction to the jury. However, it is abundantly clear from the rest of the record, including the verdict forms, the oral pronouncement of verdict, and the witnesses' testimony, that the attorneys, the court, and the jury

¹We refer to the statute in effect at the time of Jenkins's offense. *See* 2010 Ariz. Sess. Laws, ch. 59, § 2.

understood that the offense occurred in 2010. Therefore, any error that occurred was harmless.

¶4 In accordance with our obligation under *Anders*, we have reviewed the record for fundamental, reversible error and have found none. Therefore, Jenkins's conviction and sentence are affirmed.

/s/ Garye L. Vásquez
GARYE L. VÁSQUEZ, Presiding Judge

CONCURRING:

/s/ Philip G. Espinosa
PHILIP G. ESPINOSA, Judge

/s/ Virginia C. Kelly
VIRGINIA C. KELLY, Judge