

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

APR -1 2011

COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

THE STATE OF ARIZONA,)	2 CA-CR 2010-0207
)	DEPARTMENT B
Appellee,)	
)	<u>MEMORANDUM DECISION</u>
v.)	Not for Publication
)	Rule 111, Rules of
JUAN SANCHEZ,)	the Supreme Court
)	
Appellant.)	
_____)	

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR20091485002

Honorable Richard S. Fields, Judge

AFFIRMED AS MODIFIED

Law Offices of Cornelia Wallis Honchar, P.C.
By Cornelia Wallis Honchar

Tucson
Attorney for Appellant

ECKERSTROM, Judge.

¶1 After a jury trial, appellant Juan Sanchez was convicted of possession of drug paraphernalia, as alleged in count three of the amended indictment, and possession of a narcotic drug (heroin) for sale with a weight of one gram or more. The trial court sentenced him to a minimum four-year prison term for possession of heroin for sale and a

concurrent, presumptive one-year prison term for possession of drug paraphernalia. Counsel has filed a brief in compliance with *Anders v. California*, 386 U.S. 738 (1967), and *State v. Clark*, 196 Ariz. 530, 2 P.3d 89 (App. 1999), in which she avows she has reviewed the record but has found no arguable issue to raise and requests that we search the record for fundamental error. Sanchez has not filed a supplemental brief.

¶2 Viewed in the light most favorable to upholding the jury's verdicts, the evidence was sufficient to support the jury's findings of guilt. *See State v. Tamplin*, 195 Ariz. 246, ¶ 2, 986 P.2d 914, 914 (App. 1999). Sanchez was in the driver's seat of a vehicle when his passenger engaged in a brief, hand-to-hand transaction with another person. Sanchez then drove to another location to meet individuals who had arranged to purchase heroin from him. As police officers approached him, Sanchez threw a bag under his vehicle. That bag contained two smaller bags of heroin weighing a total 3.79 grams. In the vehicle, officers found \$1,830 in cash and heroin weighing 5.08 grams. This evidence supported Sanchez's convictions of possession of drug paraphernalia, *see* A.R.S. § 13-3415(A), and possession of a narcotic drug for sale, *see* A.R.S. § 13-3408(A)(2); *see also* A.R.S. § 13-3401(20)(iii), (21)(m) (defining heroin as narcotic drug).¹ Sanchez's sentences were within the prescribed statutory range and were imposed lawfully. *See* A.R.S. §§ 13-702(D), 13-3408(B)(2), 13-3415(A).

¶3 Although the trial court's oral pronouncement of sentence was proper in all respects, we note the court's minute entry designates Sanchez's four-year sentence a

¹Section 13-3401 has not changed, in relevant part, since Sanchez committed his offense in April 2009.

“mitigated” term. Under § 13-702(D), a four-year prison term for a class two felony is the “minimum” term for a class two felony such as possession of a narcotic drug for sale. See § 13-3408(B)(2). We therefore correct the sentencing minute entry to reflect that Sanchez was sentenced to the minimum, not mitigated, prison term. See *State v. Hanson*, 138 Ariz. 296, 305, 674 P.2d 850, 859 (App. 1983) (appellate court may correct mistake in sentencing minute entry).

¶4 Pursuant to our obligation under *Anders*, we have searched the record for fundamental, reversible error and, having found none, affirm Sanchez’s convictions and sentences, as corrected.

/s/ Peter J. Eckerstrom
PETER J. ECKERSTROM, Judge

CONCURRING:

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

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