

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

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION ONE

STATE OF ARIZONA, ) 1 CA-CR 11-0897  
) 1 CA-CR 11-0898  
Appellee, ) (Consolidated)  
)  
) DEPARTMENT D  
)  
v. ) **MEMORANDUM DECISION**  
) (Not for Publication -  
JAMONZ MAJERRIOUS ROSS, ) Rule 111, Rules of the  
) Arizona Supreme Court)  
Appellant. )  
\_\_\_\_\_ )

Appeal from the Superior Court in Maricopa County

Cause Nos. CR2010-007952-001  
CR2010-158088-001

The Honorable Peter C. Reinstein, Judge

**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

Bruce F. Peterson, Legal Advocate Phoenix  
By Kerri L. Chamberlin, Deputy Legal Advocate  
Attorneys for Appellant

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**G O U L D**, Judge

¶1 Jamonz Majerrious Ross ("Ross") appeals from his conviction and sentence for one count of possession or use of

dangerous drugs, a class four felony, and one count of possession of drug paraphernalia, a class six felony, in case number CR2010-007952-001 DT ("007952"). He also appeals his conviction and sentence for possession or use of a dangerous drug (methamphetamine), a class four felony; possession or use of marijuana, a class six felony; possession or use of a narcotic drug (morphine), a class four felony; possession or use of a dangerous drug (methamphetamine), a class four felony; and possession or use of marijuana, a class six felony in case number CR2010-158088-001 DT ("1588088"). Both appeals have been consolidated.

¶2 Ross was sentenced on December 16, 2011 for the convictions arising in both cases. He filed a notice of appeal on the same day. Ross's counsel filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967), and *State v. Leon*, 104 Ariz. 297, 451 P.2d 878 (1969), advising this Court that after a search of the entire appellate record, no arguable ground exists for reversal. Ross was granted leave to file a supplemental brief *in propria persona*, and did so on December 27, 2012.

¶3 Our obligation in this appeal is to review "the entire record for reversible error." *State v. Clark*, 196 Ariz. 530, 537, ¶ 30, 2 P.3d 89, 96 (App. 1999). 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 13-4033(A)(1) (West 2012).<sup>1</sup> Finding no reversible error, we affirm.

***Facts and Procedural History***<sup>2</sup>

¶4 Ross was pulled over for a traffic violation on December 23, 2009. The officer noticed a pill bottle sticking out of Ross's pocket, and noticed that the name "Ross" was not on the bottle. The officer suspected the pills were Alprazolam, a controlled substance, but did not charge Ross until the substance contained in the pills could be verified by the lab. The officer impounded the pills and sent them to a crime lab. A forensic scientist testified that in fact, the pills were Alprazolam.

¶5 Ross (who was representing himself)<sup>3</sup> testified that the pills belonged to someone named Lisa and that she had left them at his house earlier that week. However, he admitted on cross-examination that he did not know Lisa's last name,

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<sup>1</sup> Unless otherwise specified, we cite to the current version of the applicable statutes because no revisions material to this decision have occurred.

<sup>2</sup> We view the evidence in the light most favorable to sustaining the convictions and resulting sentences. See *State v. Guerra*, 161 Ariz. 289, 293, 778 P.2d 1185, 1189 (1989).

<sup>3</sup> Ross knowingly, intelligently, and voluntarily waived counsel in each case. He was assigned advisory counsel in both cases.

although he had known her for 10 years. He also admitted he had three prior felony convictions between 1999 and 2005. He was found guilty on both charges.

¶6 On September 25, 2010, a police officer was notified by a detective that Ross might be in the area and that there was a warrant for his arrest. After Ross was arrested and transported to county jail, "several items of drugs" consisting of pills, methamphetamine and marijuana were found on his person. He was booked under the original warrant because the drugs had not yet been officially tested and identified, so he was released. However, a forensic scientist for the Phoenix Police Department testified that her analysis of items submitted for testing were the controlled substances alleged in the indictment.

¶7 On October 30, 2010, Ross was arrested based on the September 25, 2010 charges. When he was searched, another two baggies of methamphetamine and marijuana were found.

¶8 Ross was charged with a total of five counts for the events of September 25 and October 30: (1) possession or use of a dangerous drug (methamphetamine), (2) possession or use of marijuana, (3) possession or use of a narcotic drug (morphine), (4) possession or use of a dangerous drug (methamphetamine), and (5) possession or use of marijuana. He was found guilty of all five counts.

¶9 Ross was either present or waived his presence and was represented by counsel throughout all stages of both cases. Two separate juries eventually found Ross guilty of all seven offenses.

¶10 After Ross was convicted of both charges, the trial court held a trial regarding Ross's prior felony convictions. The court determined that Ross had a total of seven prior convictions. Ross was given an opportunity to speak at sentencing.

¶11 With respect to case number 007952, the trial court sentenced Ross to a prison term of ten years for count one and 3.75 years for count two, to be served concurrently, with credit for 378 days for time served. With respect to case number 1588088, the trial court sentenced Ross to a prison term of 10 years for count one, 3.75 years for count two, 10 years for count three, 10 years for count four, and 3.75 years for count five, to be served concurrently, with credit for 411 days served.

### ***Discussion***

¶12 Ross raises four issues in his supplemental brief. First, he argues that his indictments were insufficient as a matter of law to put him on notice of the charges. Specifically, he argues that the indictments failed to provide a statement of facts that was sufficiently definite to inform him

of the offense charged. He also argues that there was "no specification of specific statute or specific subsection" in the indictment.

**¶13** However, Ross fails to explain how any of the charges were insufficient, aside from his general assertion that they were insufficient. Rule of Criminal Procedure 13.2 requires only that a "plain, concise statement of the facts sufficiently definite to inform the defendant of the offense charged is required." Our review of the indictments reveals that in each case, the date of the offense and the relevant statutory sections were properly listed, along with a brief description of the offense. For example, the indictment for 007952 alleged, with respect to count one, that "Ross, on or about the 23rd day of December, 2009, knowingly possessed or used Alprazolam, a dangerous drug, in violation of A.R.S. §§ 13-3401, 13-3407, 13-3418, 13-701, 13-702, and 13-801." We find this description sufficiently definite to inform Ross of the offense charged. We also find that the other offenses charged were likewise sufficiently definite to inform Ross of the charges against him.

**¶14** Defendant next complains that he was not arraigned. However, the record reflects that Defendant was arraigned on December 9, 2010 in 007952 ("Let the record reflect that Defendant enters a plea of not guilty to all charges.") and on November 18, 2010 in 158088 ("Let the record reflect that the

Defendant enters a plea of not guilty to all charges.”). While Defendant argues that he was not represented by an attorney at any time during these hearings,<sup>4</sup> the record also reflects that attorneys were present on Defendant’s behalf during both arraignments: Bruce Walker was present as Defendant’s attorney on December 9, 2010 in 007952, and Carmen Dapkus was present as Defendant’s attorney on November 18, 2010 in 158088.

¶15 Defendant next argues that he was forced to go to trial without adequate time to prepare on July 26, 2011. However, the trial court had twice offered to give Defendant more time to prepare, and he declined both times.

¶16 Finally, Defendant argues that his defense was hindered by the county jail’s policy of not allowing inmates to call directly to witnesses or investigators. However, he fails to explain how access to a telephone would have affected his claims or why he did not seek assistance from his advisory counsel.

¶17 We have read and considered the entire record and have found no meritorious grounds for reversal of Ross’s conviction

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¶1 <sup>4</sup> The case Defendant cites in support of his argument does not support his assertion that the lack of an arraignment requires reversal. In *Garland v. Washington*, 232 U.S. 642 (1914), the conviction of a defendant who had not been arraigned but who had received a jury trial with a full opportunity to be heard was affirmed; the court explained that “[t]echnical objections of this character were undoubtedly given much more weight formerly than they are now.” *Id.* at 646.

or for modification of the sentence imposed. *Clark*, 196 Ariz. at 541, ¶ 50, 2 P.3d at 100. Ross was present at all critical stages of the proceedings and waived his right to counsel (although he was nevertheless provided with advisory counsel). All proceedings were conducted in compliance with the Arizona Rules of Criminal Procedure, and substantial evidence supported the finding of guilt. Accordingly, we affirm.



**Conclusion**

¶18 Counsel's obligations pertaining to Ross's representation in this appeal have ended. Counsel need do nothing more than inform Ross of the status 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. *State v. Shattuck*, 140 Ariz. 582, 584-85, 684 P.2d 154, 156-57 (1984). Ross shall have thirty days from the date of this decision to proceed, if he so desires, with an *in propria persona* motion for reconsideration or petition for review.<sup>5</sup>

/S/  
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ANDREW W. GOULD, Judge

CONCURRING:

/S/  
\_\_\_\_\_  
PATRICIA K. NORRIS, Presiding Judge

/S/  
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RANDALL M. HOWE, Judge

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<sup>5</sup> Pursuant to Arizona Rule of Criminal Procedure 31.18(b), Defendant or his counsel has fifteen days to file a motion for reconsideration. On the court's own motion, we extend the time to file such a motion to thirty days from the date of this decision.