IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

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FILED: 11/27/2012
RUTH A. WILLINGHAM, CLERK
BY: sls

STATE OF ARIZONA,	)	1 CA-CR 12-0187
	)	
Appellee,	)	DEPARTMENT S
	)	
v.	)	**MEMORANDUM DECISION**
	)	(Not for Publication –
JAMEL COURTNEY ORTEGA,	)	Rule 111, Rules of the
	)	Arizona Supreme Court)
Appellant.	)	
	)	

Appeal from the Superior Court in Maricopa County

Cause No. CR2011-136728-001

The Honorable Brian D. Kaiser, Judge

AFFIRMED

Thomas C. Horne, Arizona 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 Charles R. Krull, Deputy Public Defender
Attorneys for Appellant

W I N T H R O P, Chief Judge

¶1 Jamel Courtney Ortega ("Appellant") appeals his convictions and placement on probation for possession or use of marijuana and possession of drug paraphernalia. Appellant's

counsel has filed a brief in accordance with *Smith v. Robbins*, 528 U.S. 259 (2000); *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 on appeal and found no arguable question of law that is not frivolous. Appellant's counsel therefore requests that we review the record for fundamental error. *See State v. Clark*, 196 Ariz. 530, 537, ¶ 30, 2 P.3d 89, 96 (App. 1999) (stating that this court reviews the entire record for reversible error). Although this court granted Appellant the opportunity to file a supplemental brief *in propria persona*, he has not done so.

¶2 We have appellate jurisdiction pursuant to the Arizona Constitution, Article 6, Section 9, and Arizona Revised Statutes ("A.R.S.") sections 12-120.21(A)(1) (West 2012),[1] 13-4031, and 13-4033(A). Finding no reversible error, we affirm.

I. FACTS AND PROCEDURAL HISTORY[2]

¶3 On August 5, 2011, the State charged Appellant by information with Count 1, possession or use of marijuana, a class six felony, in violation of A.R.S. § 13-3405, and Count 2,

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[1] We cite the current Westlaw version of the applicable statutes because no revisions material to this decision have since occurred.

[2] We review the facts in the light most favorable to sustaining the verdict and resolve all reasonable inferences against Appellant. *See State v. Kiper*, 181 Ariz. 62, 64, 887 P.2d 592, 594 (App. 1994).

possession of drug paraphernalia, a class six felony, in violation of A.R.S. § 13-3415. Before trial, the State moved to re-designate the alleged offenses as class one misdemeanors and proceed to a bench trial. The trial court granted the motion.

¶4 At trial, the State presented the following evidence: On July 15, 2011, a Phoenix police officer in an unmarked patrol car observed Appellant and another person enter a vehicle in the parking lot of a bar. While in the vehicle, Appellant rolled and lit a cigarette the officer believed might contain marijuana. The officer followed Appellant's vehicle as it left and smelled a "burnt marijuana smell" coming into his vehicle. The officer also noticed Appellant was exceeding the speed limit by ten miles an hour and radioed for a marked patrol car to stop Appellant's vehicle. After the vehicle was stopped, the officer searched the car and found a flip-top box that contained several items, including, a green, leafy substance later determined to be marijuana, empty clear baggies, cigarette rolling papers, and a scale.

¶5 Appellant testified at trial that he smokes rolled cigarettes because they cost less, he did not smoke marijuana on July 15, 2011 and he later learned that the marijuana found in his vehicle belonged to a friend who had used the vehicle to move the night before the incident.

¶6 The court found Appellant guilty of both charged counts. Appellant agreed to proceed directly to sentencing after the verdicts. The trial court suspended sentencing and placed Appellant on concurrent terms of unsupervised probation for twelve months each, with a requirement that he attend an eight-hour drug education course. Appellant filed a timely notice of appeal.

II. ANALYSIS

¶7 We have reviewed the entire record for reversible error and find none. *See Leon*, 104 Ariz. at 300, 451 P.2d at 881; *Clark*, 196 Ariz. at 537, ¶ 30, 2 P.3d at 96. The evidence presented at trial was substantial and supports the verdicts, and the sentencing proceedings followed the statutory requirements. Appellant was represented by counsel at all stages of the proceedings and was given the opportunity to speak at sentencing. The proceedings were conducted in compliance with his constitutional and statutory rights and the Arizona Rules of Criminal Procedure.

¶8 After filing of this decision, defense counsel's obligations pertaining to Appellant's representation in this appeal have ended. Counsel need do no more than inform Appellant of the status of the appeal and of his future options, unless counsel's review reveals an issue appropriate for petition for review to the Arizona Supreme Court. *See State v.*

Shattuck, 140 Ariz. 582, 584-85, 684 P.2d 154, 156-57 (1984). Appellant has thirty days from the date of this decision to proceed, if he desires, with a *pro per* motion for reconsideration or petition for review.

III. CONCLUSION

¶9 Appellant's convictions and placement on probation are affirmed.

/S/
LAWRENCE F. WINTHROP, Chief Judge

CONCURRING:

/S/
JOHN C. GEMMILL, Judge

/S/
ANDREW W. GOULD, Judge