

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



DIVISION ONE  
FILED: 1/31/2013  
RUTH A. WILLINGHAM,  
CLERK  
BY: mjt

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION ONE

STATE OF ARIZONA, ) No. 1 CA-CR 12-0223  
)  
Appellee, ) DEPARTMENT A  
)  
v. ) **MEMORANDUM DECISION**  
)  
MUSIO FERNANDO GUTIERREZ- ) (Not for Publication -  
CASTANEDA, ) Rule 111, Rules of the  
) Arizona Supreme Court)  
Appellant. )

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Appeal from the Superior Court in Yuma County

Cause No. S1400CR201100462

The Honorable Lawrence C. Kenworthy 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

Yuma County Public Defender's Office Yuma  
By Edward F. McGee, Deputy Public Defender  
Attorneys for Appellant

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G E M M I L L, Judge

¶1 Musio Fernando Gutierrez-Casteneda ("Gutierrez-Casteneda") appeals from his convictions and order imposing probation for possession of dangerous drugs (methamphetamine) and possession of drug paraphernalia. Gutierrez-Casteneda's counsel filed a brief in compliance with *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 and found no arguable question of law and requesting that this court examine the record for reversible error. Gutierrez-Casteneda was afforded the opportunity to file a *pro se* supplemental brief, but did not do so. See *State v. Clark*, 196 Ariz. 530, 537, ¶ 30, 2 P.3d 89, 96 (App. 1999). For the following reasons, we affirm.

#### FACTS AND PROCEDURAL HISTORY

¶2 "We view the facts and all reasonable inferences therefrom in the light most favorable to sustaining the convictions." *State v. Powers*, 200 Ariz. 123, 124, ¶ 2, 23 P.3d 668, 669 (App. 2001). On March 28, 2011, Deputy Meyer of the Yuma County Sheriff's Office was patrolling a neighborhood near Date Avenue and Eighth Street in Yuma, Arizona. During his patrol, he noticed Gutierrez-Casteneda riding a bicycle across traffic lanes and decided to stop and advise him of the bicycle laws. When Deputy Meyers attempted to stop Gutierrez-Casteneda, he stood up on his bicycle pedals and began to pedal faster.

Gutierrez-Casteneda continued to ride to a dirt driveway despite Deputy Meyer's instruction to stop. When he came to the end of the dirt driveway, Gutierrez-Casteneda reached his hand into his left shirt pocket and threw an item to his left just fifteen feet from Deputy Meyer. Shortly after, Gutierrez-Casteneda stopped his bicycle, and Deputy Meyer placed him in hand restraints.

¶3 Deputy Meyer escorted Gutierrez-Casteneda to the patrol vehicle and searched the dirt driveway with another deputy. The deputies found a yellow Kodak container that appeared to have been in the dirt for only a short time. Deputy Meyer opened the container and found seven individually wrapped bundles of a white hard substance that appeared to be methamphetamine. Deputy Meyer then placed Gutierrez-Casteneda under arrest. The substance was transported to the Phoenix crime lab and screened as methamphetamine.

¶4 On March 22, 2012, Gutierrez-Casteneda was convicted of possession of dangerous drugs, a non-dangerous, non-repetitive class four felony; and possession of drug paraphernalia, a non-dangerous, non-repetitive class six felony. After considering the facts, circumstances, and applicable law, the court found that probation was appropriate. Gutierrez-Casteneda was placed on intensive probation for thirty-six months and ordered to pay certain fines, fees, and assessments

as conditions of his probation.

#### DISCUSSION

¶15 Having considered defense counsel's brief and examined the record for reversible error, see *Leon*, 104 Ariz. at 300, 451 P.2d at 881, we find none. The evidence presented supports the convictions and the order of probation falls within the sentencing options and ranges permitted by law. As far as the record reveals, Gutierrez-Casteneda was represented by counsel at all stages of the proceedings, and these proceedings were conducted in compliance with his constitutional and statutory rights and the Arizona Rules of Criminal Procedure.

¶16 Pursuant to *State v. Shattuck*, 140 Ariz. 582, 584-85, 684 P.2d 154, 156-57 (1984), counsel's obligations in this appeal have ended. Counsel need do no more than inform Gutierrez-Casteneda of the disposition 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. Gutierrez-Casteneda has thirty days from the date of this decision in which to proceed, if he desires, with a *pro se* motion for reconsideration or petition for review.

#### CONCLUSION

¶17 The convictions and order imposing probation are

affirmed.

\_\_\_\_\_/s/\_\_\_\_\_  
JOHN C. GEMMILL, Presiding Judge

CONCURRING:

\_\_\_\_\_/s/\_\_\_\_\_  
LAWRENCE F. WINTHROP, Judge

\_\_\_\_\_/s/\_\_\_\_\_  
MARGARET H. DOWNIE, Judge