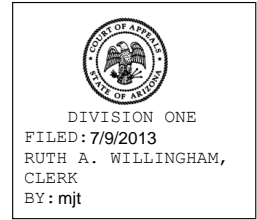


NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED
EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);
Ariz. R. Crim. P. 31.24



IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

STATE OF ARIZONA,) 1 CA-CR 12-0536
)
Appellee,) DEPARTMENT A
)
v.) **MEMORANDUM DECISION**
) (Not for Publication -
JERMAINE LAMONTE DODD,) Rule 111, Rules of the
) Arizona Supreme Court)
Appellant.)
)

Appeal from the Superior Court in Maricopa County

Cause No. CR2010-102033-001

The Honorable Barbara L. Spencer, Judge

AFFIRMED

Thomas C. Horne, Arizona Attorney General Phoenix
By Joseph T. Maziarz, Chief Counsel
Criminal Appeals Section
Attorney for Appellee

Bruce Peterson, Office of the Legal Advocate Phoenix
By Frances J. Gray, Deputy Legal Advocate
Attorney for Appellant

C A T T A N I, Judge

¶1 Jermaine Lamonte Dodd appeals his conviction of (1) one count of possession of narcotic drugs for sale, a Class 2 felony; (2) one count of misconduct involving weapons (possessed

during commission of possession of narcotic drugs), a Class 4 felony; and (3) one count of misconduct involving weapons (prohibited possessor), a Class 4 felony, and the resulting sentences. Dodd'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), certifying that, after a diligent search of the record, he found no arguable question of law that was not frivolous. Counsel asks this court to search the record for reversible error. See *State v. Clark*, 196 Ariz. 530, 537, ¶ 30, 2 P.3d 89, 96 (App. 1999). Dodd was given an opportunity to file a supplemental brief and did so, arguing that (1) his trial attorney failed to file a notice of appeal and (2) he has the right to release pending appeal under Arizona Rule of Criminal Procedure 7.2. After reviewing the entire record, we affirm Dodd's convictions and sentences.

FACTS AND PROCEDURAL BACKGROUND¹

¶12 Phoenix Police Officers Steven Land and Ryan Merrill responded to a two-car collision in Phoenix on a January evening in 2010. Officer Land assisted two individuals, Dodd (the front passenger) and a driver, out of one vehicle and had them sit on the curb to await medical attention. While both officers were

¹ We view the facts in the light most favorable to sustaining the jury's verdict and resolve all reasonable inferences against Dodd. *State v. Fontes*, 195 Ariz. 229, 230, ¶ 2, 986 P.2d 897, 898 (App. 1998).

assisting the occupants of the other car, Dodd ran from the scene and threw a duffle bag over a fence. The officers caught and arrested Dodd and recovered the duffle bag, which held approximately three kilograms of cocaine. The driver fled the scene while the officers were chasing Dodd.

¶13 Officers later searched the car pursuant to a search warrant. The officers found approximately two kilograms of cocaine in the back seat and three loaded firearms (an assault rifle, a shotgun, and a pistol) on the center console and the front passenger seat. Dodd was carrying four cell phones and \$4,032 in cash.

¶14 The recovered guns and drugs were later discovered to be part of a contemporaneous kidnapping and "drug rip." A person involved in the drug transaction positively identified the duffle bag and cocaine as having been sold earlier that day to two black males driving the same make of car that Dodd was riding in at the time of the traffic accident.

¶15 Although Dodd admitted to the police and testified at trial that he rode in the passenger seat of the car, he denied running from the scene or possessing any knowledge of the guns or cocaine. Dodd testified at trial and admitted three prior felony convictions (an armed robbery and two other felonies thereafter) while on the stand. Dodd also acknowledged that he knew he was a prohibited possessor.

¶16 Dodd was arrested and charged with the three counts detailed above. After an eight-day trial, a jury found Dodd guilty as charged on all three counts and, regarding the possession of narcotic drugs for sale count, found the weight of the cocaine exceeded nine grams. The court found three historical prior felony convictions. The court sentenced Dodd to concurrent, enhanced, and slightly aggravated terms of 17 years for possession of narcotic drugs for sale, 11 years for misconduct involving weapons (possessed during commission of possession of narcotic drugs), and 11 years for misconduct involving weapons (prohibited possessor), with 109 days' presentence credit.

¶17 Dodd timely appealed. 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 -4033.²

DISCUSSION

¶18 We have reviewed and considered counsel's brief, Dodd's supplemental brief, and the entire record for reversible error. See *Leon*, 104 Ariz. at 300, 451 P.2d at 881. We find none.

² Absent material revisions after the relevant date, we cite a statute's current version.

¶9 Dodd contends that his trial counsel's failure to file a notice of appeal is reversible error. Upon learning that Dodd's trial counsel failed to file a notice of appeal, the superior court appointed new counsel and granted permission to file a delayed notice of appeal, which Dodd's counsel timely filed. Thus, Dodd's argument is moot.

¶10 Dodd also argues that he has a right to release pending appeal under Rule 7.2 of the Arizona Rules of Criminal Procedure. Rule 7.2(c)(1) only authorizes release pending appeal where the defendant establishes "reasonable grounds to believe that the conviction may be set aside on a motion for new trial, reversed on appeal, or vacated in any post-conviction proceeding." Dodd has not established any such grounds.

¶11 Dodd was present and represented by counsel at all stages of the proceedings against him. The record reflects that the superior court afforded Dodd all his rights under the constitution and our statutes, and that the proceedings were conducted in accordance with the Arizona Rules of Criminal Procedure. The court conducted appropriate pretrial hearings, and the evidence presented at trial and summarized above was sufficient to support the jury's guilty verdict. Dodd's sentences fall within the range prescribed by law, with proper credit given for presentence incarceration.

CONCLUSION

¶12 We affirm Dodd's convictions and sentences. After the filing of this decision, defense counsel's obligations pertaining to Dodd's representation in this appeal will end after informing Dodd of the outcome of this appeal and his future options. See *State v. Shattuck*, 140 Ariz. 582, 584-85, 684 P.2d 154, 156-57 (1984). Dodd shall have 30 days from the date of this decision to proceed, if he desires, with a *pro se* motion for reconsideration or petition for review.

/S/

KENT E. CATTANI, Judge

CONCURRING:

/S/

PATRICIA A. OROZCO, Presiding Judge

/S/

PETER B. SWANN, Judge