

NOTICE: NOT FOR PUBLICATION.
UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION DOES NOT CREATE
LEGAL PRECEDENT AND MAY NOT BE CITED EXCEPT AS AUTHORIZED.

IN THE
ARIZONA COURT OF APPEALS
DIVISION ONE

STATE OF ARIZONA, *Appellee*,

v.

JENNIFER TORRES, *Appellant*.

No. 1 CA-CR 13-0840
FILED 06-26-2014

Appeal from the Superior Court in Maricopa County
No. CR 2012-155927-001
The Honorable Christine E. Mulleneaux, Judge *Pro Tempore*

AFFIRMED

COUNSEL

Arizona Attorney General's Office, Phoenix
By Joseph T. Maziarz
Counsel for Appellee

Maricopa County Legal Defender's Office, Phoenix
By Cynthia D. Beck
Counsel for Appellant

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MEMORANDUM DECISION

Judge Margaret H. Downie delivered the decision of the Court, in which Presiding Judge Kenton D. Jones and Judge Donn Kessler joined.

D O W N I E, Judge:

¶1 Jennifer Torres timely appeals her conviction for possession of dangerous drugs in violation of Arizona Revised Statutes (“A.R.S.”) section 13-3407(A)(1). Pursuant to *Anders v. California*, 386 U.S. 738 (1967), and *State v. Leon*, 104 Ariz. 297, 451 P.2d 878 (1969), defense counsel has searched the record, found no arguable question of law, and asked that we review the record for reversible error. See *State v. Richardson*, 175 Ariz. 336, 339, 857 P.2d 388, 391 (App. 1993). Defendant was given the opportunity to file a supplemental brief *in propria persona*, but she has not done so.

FACTS AND PROCEDURAL HISTORY¹

¶2 Officer Schneider observed a female (later identified as Torres) and a male pull into a motel parking lot known to law enforcement as a hotspot for drug activity. The couple sat in the vehicle for about 20 minutes without any apparent activity. Officer Schneider approached the vehicle and asked if Torres “had a few moments to speak with” him; Torres assented. Officer Schneider saw a green glass pipe lying on the floorboard between Torres’ feet.

¶3 Officer Schneider asked Torres to exit the vehicle and empty her pockets. As Torres did so, she threw a baggie containing a white substance to the ground, causing another baggie to stick out of the same pocket; Officer Schneider collected both baggies and placed Torres under arrest. He read *Miranda* warnings to Torres and asked her about the baggies. Torres stated “she knew the substance was methamphetamine[,] . . . [but] it did not belong to her.” According to Torres, “a friend of hers had loaned her \$5 the evening before and she believed that the meth was wrapped inside of the money[,]” but “she had spent the \$5 at a store

¹ We view the facts “in the light most favorable to sustaining the conviction.” *State v. Tison*, 129 Ariz. 546, 552, 633 P.2d 355, 361 (1981).

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earlier in the morning.” When asked why she threw the meth on the ground, she said “she did not want to go to jail.”

¶4 The State charged Torres with one count of possessing a dangerous drug (methamphetamine), a class four felony, and one count of possession of drug paraphernalia, a class six felony. At trial, both Officer Schneider and a criminalist testified. The criminalist testified that the baggies contained methamphetamine, a dangerous drug under Arizona law. The glass pipe had been broken while in police custody; over Torres’ objection, the superior court permitted the State to introduce the broken pipe and elicit testimony about it.

¶5 At the conclusion of the State’s case-in-chief, Torres did not move for a judgment of acquittal pursuant to Rule 20, Arizona Rules of Criminal Procedure, and she did not present any witnesses. The jury convicted Torres of drug possession but found her not guilty of the drug paraphernalia charge. The superior court sentenced Torres to three years of probation and, as a condition of probation, 30 days in county jail.

DISCUSSION

¶6 We have read and considered the briefs submitted by counsel and have reviewed the entire record. *Leon*, 104 Ariz. at 300, 451 P.2d at 881. We find no reversible error. All of the proceedings were conducted in compliance with the Arizona Rules of Criminal Procedure, and the sentence imposed was within the statutory range. Torres was present at all critical phases of the proceedings and was represented by counsel. The jury was properly impaneled and instructed. The jury instructions were consistent with the offenses charged. The record reflects no irregularity in the deliberation process.

¶7 The trial record includes substantial evidence to support the jury’s verdict. See *Tison*, 129 Ariz. at 552, 633 P.2d at 361 (in reviewing for sufficiency of evidence, “[t]he test to be applied is whether there is substantial evidence to support a guilty verdict”). “Substantial evidence is proof that reasonable persons could accept as sufficient to support a conclusion of a defendant’s guilt beyond a reasonable doubt.” *State v. Spears*, 184 Ariz. 277, 290, 908 P.2d 1062, 1075 (1996). Substantial evidence “may be either circumstantial or direct.” *State v. Henry*, 205 Ariz. 229, 232, ¶ 11, 68 P.3d 455, 458 (App. 2003).

¶8 The State was required to prove that Torres knowingly possessed or used a dangerous drug. A.R.S. § 13-3407(A)(1). “Knowingly” means “a person is aware or believes that the person’s

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conduct is of that nature or that the circumstance[s] exist[]” regarding the offense. A.R.S. § 13-105(10)(b). “Possess” means to “knowingly exercise[] dominion or control over [the] property.” A.R.S. § 13-105(35).

¶9 Torres knew that the two baggies in her pocket contained methamphetamine. Testing confirmed that the substance was indeed methamphetamine, a dangerous drug under Arizona law. A.R.S. § 13-3401(6). Although Torres denied the methamphetamine was hers and told an officer she did not knowingly possess it, “[n]o rule is better established than that the credibility of the witnesses and the weight and value to be given to their testimony are questions exclusively for the jury.” *State v. Clemons*, 110 Ariz. 555, 556-57, 521 P.2d 987, 988-89 (1974). Substantial evidence supports Torres’ conviction for possession of dangerous drugs.

CONCLUSION

¶10 We affirm Torres’ conviction and sentence. Counsel’s obligations pertaining to Torres’ representation in this appeal have ended. Counsel need do nothing more than inform Torres of the status of the appeal and her 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). On the court’s own motion, Torres shall have thirty days from the date of this decision to proceed, if she desires, with an *in propria persona* motion for reconsideration or petition for review.



Ruth A. Willingham · Clerk of the Court
FILED : gsh