

NOTICE: NOT FOR OFFICIAL PUBLICATION.
UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL
AND MAY BE CITED ONLY AS AUTHORIZED BY RULE.

IN THE
ARIZONA COURT OF APPEALS
DIVISION ONE

STATE OF ARIZONA, *Appellee*,

v.

JOHN EDWARD GRAHAM, *Appellant*.

No. 1 CA-CR 15-0500
FILED 7-28-16

Appeal from the Superior Court in Maricopa County
No. CR2014-106189-001 SE
The Honorable Jerry Bernstein, Judge *Pro Tempore*

AFFIRMED

COUNSEL

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

Maricopa County Public Defender's Office, Phoenix
By Kathryn L. Petroff
Counsel for Appellant

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MEMORANDUM DECISION

Chief Judge Michael J. Brown delivered the decision of the Court, in which Presiding Judge Kent E. Cattani and Judge Samuel A. Thumma joined.

B R O W N, Chief Judge:

¶1 John Edward Graham appeals his convictions and resulting probation grants for possession or use of narcotic drugs, and possession of drug paraphernalia. Graham’s counsel filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967), and *State v. Leon*, 104 Ariz. 297 (1969), advising that after searching the record on appeal, she was unable to find any arguable grounds for reversal. Graham was granted the opportunity to file a supplemental brief *in propria persona*, but he has not done so.

¶2 Our obligation is to review the entire record for reversible error. *State v. Clark*, 196 Ariz. 530, 537, ¶ 30 (App. 1999). We view the facts in the light most favorable to sustaining the conviction and resolve all reasonable inferences against Graham. *State v. Guerra*, 161 Ariz. 289, 293 (1989). Finding no reversible error, we affirm.

¶3 The State charged Graham with possession or use of a narcotic drug, a class 4 felony, in violation of Arizona Revised Statutes (“A.R.S”) section 13-3408(A)(1), and possession of drug paraphernalia, a class 6 felony, in violation of A.R.S. § 13-3415(A). The following evidence was presented at trial.

¶4 In October 2013, Officer Garcia placed Graham under arrest after Graham committed a civil traffic violation.¹ Garcia used a narcotics dog to search Graham’s vehicle. The dog alerted to a small black pelican case located on top of the console between the two front seats of the vehicle. Garcia used a small key he found on a key chain in Graham’s pocket to unlock the case, and inside he found a small plastic bag containing “numerous white pills” and a medical syringe, among other things.

¶5 A criminalist testified that she tested two of the white pills found in the bag and confirmed that they were buprenorphine, a schedule

¹ At trial, Graham stipulated that his arrest was lawful.

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III narcotic drug. The criminalist explained that buprenorphine is often prescribed to treat the symptoms of opiate withdrawal, and if used improperly, may cause a person to experience a “high.” She also testified that buprenorphine can be dissolved in water and injected into the bloodstream with a syringe.

¶6 A jury found Graham guilty as charged. At sentencing, the court placed Graham on concurrent terms of three years’ supervised probation for each count. Graham’s subsequent request to file a delayed notice of appeal was granted.

¶7 Because Graham’s brief was filed according to *Anders*, no issues were preserved, and we review for fundamental error only. *State v. Barraza*, 209 Ariz. 441, 447, ¶ 19 (App. 2005). We have searched the entire record for reversible error and have found none. All proceedings were conducted in accordance with Arizona Rules of Criminal Procedure. Graham was either present or had his presence properly waived during proceedings on all major motions. The record shows that Graham was present at all pertinent proceedings, and was represented by counsel. Accordingly, we affirm Graham’s convictions and the resulting probation grants.

¶8 Upon the filing of this decision, counsel shall inform Graham of the status of this appeal and his options. Defense counsel has no further obligation unless, upon review, counsel finds an issue appropriate for submission to the Arizona Supreme Court by petition for review. *See State v. Shattuck*, 140 Ariz. 582, 584-85 (1984). Graham shall have thirty days from the date of this decision to proceed, if he so desires, with a *pro per* motion for reconsideration or petition for review.



Ruth A. Willingham · Clerk of the Court

FILED : jt