

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL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.

ARMANDO CONTRERAS, *Appellant*.

No. 1 CA-CR 16-0816
FILED 10-17-2017

Appeal from the Superior Court in Maricopa County
No. CR2014-002544-001
The Honorable Teresa A. Sanders, Judge

AFFIRMED

COUNSEL

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

Maricopa County Public Defender's Office, Phoenix
By Jeffrey L. Force
Counsel for Appellant

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MEMORANDUM DECISION

Judge Paul J. McMurdie delivered the decision of the Court, in which Presiding Judge Kent E. Cattani and Judge Jon W. Thompson joined.

M c M U R D I E, Judge:

¶1 Armando Contreras appeals her conviction of sexual conduct with a minor and the resulting sentence.¹ Contreras’s counsel filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967), and *State v. Leon*, 104 Ariz. 297 (1969), certifying that, after a diligent search of the record, counsel found no arguable question of law that was not frivolous. Contreras was given the opportunity to file a supplemental brief, but did not do so. Counsel asks this court to search the record for reversible error. *See State v. Clark*, 196 Ariz. 530, 537, ¶ 30 (App. 1999). After reviewing the record, we affirm Contreras’s conviction and sentence.

FACTS AND PROCEDURAL BACKGROUND

¶2 On May 17, 2014, Contreras went out drinking with friends she was visiting in Arizona. Later that night, A.R., the 14-year-old son of one of Contreras’s friends, woke up with Contreras asleep on his legs. A.R.’s pants had been pulled down and his genitals were wet. A.R. was asleep, but believed Contreras had put her mouth on his penis.

¶3 A.R.’s mother called the police, and the next day a pediatric nurse examined A.R. The nurse collected buccal swabs from A.R.’s mouth, genital swabs, pubic hair combings, and the clothes he was wearing the previous night. A forensic DNA analysis revealed a mixture of A.R.’s and Contreras’s DNA in the pubic hair combings, the genital swabs, and A.R.’s underwear.

¶4 On September 15, 2014, Contreras was indicted with one count of sexual conduct with a minor, a Class 2 felony and dangerous crime against children. The State alleged one prior felony conviction and several aggravating circumstances. Contreras pled not guilty and a jury trial began in November 2015. On December 15, 2015, the superior court declared a mistrial due to a hung jury. A second trial began in June 2016 and the jury

¹ Contreras is transgender and self-identifies as female.

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returned a guilty verdict. The jury also found the victim was under the age of 15 at the time of the offense. During the aggravation phase of the trial the jury found five aggravating factors proven including: (1) the offense caused emotional harm to the victim; (2) Contreras abused her position of trust over the victim; (3) Contreras had a prior conviction for a similar offense; (4) Contreras was a danger to society; and (5) there was a need to protect future victims from Contreras.

¶5 At sentencing, the superior court found Contreras had one prior felony conviction and sentenced her as a repetitive offender to a mitigated term of 27 years' imprisonment with 773 days of presentence incarceration credit. Contreras timely appealed.

DISCUSSION

¶6 We have read and considered counsel's brief and have reviewed the record for arguable error. *See Leon*, 104 Ariz. at 300. We find none.

¶7 Contreras was present and represented by counsel at all stages of the proceedings against her. The record reflects the superior court afforded Contreras all her constitutional and statutory rights, and 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 verdict. Contreras's sentence falls within the range prescribed by law, with proper credit given for presentence incarceration.

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CONCLUSION

¶8 Contreras's conviction and sentence are affirmed. After the filing of this decision, defense counsel's obligations pertaining to Contreras's representation in this appeal will end after informing Contreras of the outcome of this appeal and her future options, unless counsel's review reveals an issue appropriate for submission to the Arizona Supreme Court by petition for review. *See State v. Shattuck*, 140 Ariz. 582, 584-85 (1984). On the court's own motion, Contreras has 30 days from the date of this decision to proceed, if she desires, with a *pro se* motion for reconsideration or petition for review.



AMY M. WOOD • Clerk of the Court
FILED: AA