

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL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

DAVID TORRES, *Appellant*.

No. 1 CA-CR 17-0396
FILED 3-29-2018

Appeal from the Superior Court in Maricopa County
No. CR 2013-446142-001
The Honorable Jay R. Adleman, Judge

AFFIRMED

COUNSEL

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

Maricopa County Public Defender's Office, Phoenix
By Joel M. Glynn
Counsel for Appellant

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MEMORANDUM DECISION

Presiding Judge Michael J. Brown delivered the decision of the Court, in which Judge Maria Elena Cruz and Judge Samuel A. Thumma joined.

B R O W N, Judge:

¶1 David Torres appeals his conviction and the resulting imposition of probation for misdemeanor possession of marijuana. Counsel for Torres filed a brief in compliance 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, he found no meritorious grounds for reversal. Torres was granted an opportunity to file a supplemental brief *in propria persona* but did not do so.

¶2 Our obligation is to review the entire record for reversible error. See *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 Torres. *State v. Guerra*, 161 Ariz. 289, 293 (1989).

¶3 In the early morning of May 20, 2012, Officer Denning arrested Torres for an unrelated matter. Torres was 16 years old at the time of the arrest. Denning found a small bag of marijuana concealed in the hat Torres was wearing. A forensic scientist tested the bag and found it contained marijuana.

¶4 In 2013, the State charged Torres with one count of possession or use of marijuana, a class 6 felony, by direct complaint and summons. When Torres did not appear for his initial appearance, a warrant issued and the State proceeded by information filed in 2015 and Torres was not tried until 2017. During some of this time, Torres unsuccessfully participated in deferred prosecution programs. Thirty days before trial, the State designated the charge as a class 1 misdemeanor. Shortly thereafter, Torres moved to dismiss the charges, arguing the State unreasonably delayed filing the charge until he had turned 18 years old. The superior court denied Torres's motion, explaining that Torres was twice offered the opportunity to complete a deferred prosecution program but he failed to meet the program's requirements each time. The court concluded that the State did

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not gain any tactical advantage based on the delay and Torres did not establish prejudice.

¶5 Following a bench trial, the superior court found Torres guilty of one count of possession of marijuana, a class 1 misdemeanor, and as a consequence placed him on 12 months' unsupervised probation. Torres timely appealed.

¶6 After a thorough review of the record, we find no reversible error. *Clark*, 196 Ariz. at 541, ¶ 50. Torres was present, and represented by counsel, at all stages of the proceedings against him. The evidence presented supports the conviction and the disposition falls within the range permitted by law. As far as the record reveals, these proceedings were conducted in compliance with Torres's constitutional and statutory rights and the Arizona Rules of Criminal Procedure. Therefore, we affirm Torres's conviction and the resulting imposition of probation.

¶7 Defense counsel's obligations pertaining to Torres's representation in this appeal have ended. *See State v. Shattuck*, 140 Ariz. 582, 584 (1984). Counsel need do no more than inform Torres of the outcome of this appeal and his future options, unless, upon review, counsel finds "an issue appropriate for submission" to the Arizona Supreme Court by petition for review. *Id.* at 584-85. Torres has 30 days from the date of this decision to proceed, if he wishes, with a *pro per* motion for reconsideration or petition for review.



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