

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL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

DOUGLAS KEITH KNELL, *Appellant*.

No. 1 CA-CR 17-0772
FILED 11-20-18

Appeal from the Superior Court in Yavapai County
No. P1300CR201600580
The Honorable Michael R. Bluff, Judge

AFFIRMED

COUNSEL

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

Law Office of Nicole Countryman, Phoenix
By Nicole Countryman
Counsel for Appellant

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MEMORANDUM DECISION

Presiding Judge James P. Beene delivered the decision of the Court, in which Judge Michael J. Brown and Judge James B. Morse Jr. joined.

B E E N E, Judge:

¶1 This appeal was timely filed in accordance with *Anders v. California*, 386 U.S. 738 (1967) and *State v. Leon*, 104 Ariz. 297 (1969) following the superior court's conviction of Douglas Keith Knell ("Knell") for Possession of Dangerous Drugs (Methamphetamine), a class 4, non-dangerous, repetitive felony, and Possession of Drug Paraphernalia, a class 6 designated, non-dangerous, repetitive felony. Knell's counsel searched the record on appeal and found no arguable question of law that is not frivolous. *State v. Clark*, 196 Ariz. 530 (App. 1999). Knell was given the opportunity to file a supplemental brief in *propria persona* but did not do so. Counsel now asks this Court to search the record for fundamental error. After reviewing the entire record, we affirm.

FACTS AND PROCEDURAL HISTORY

¶2 On April 24, 2016, at approximately 1:00 a.m., Officer Frost was patrolling in his patrol car when he witnessed a green truck and a light-colored sedan park next to each other in a bank's parking lot. Officer Frost watched the driver of the truck exit his vehicle, approach the window of the sedan, and go to an ATM at the bank. The driver of the truck then walked back to the window of the sedan, and Officer Frost observed the driver of the truck and the driver of the sedan pass something back and forth. The truck driver got back into his vehicle, then both the sedan and the truck left the parking lot. Officer Frost followed both vehicles and, after the sedan turned off the main road, Officer Frost continued to follow the truck. The truck committed a traffic violation, and Officer Frost pulled the truck over.

¶3 Officer Frost exited his patrol vehicle, approached the driver, and identified himself. He asked the driver several questions about the ATM transaction, and the driver provided contradictory answers to the questions. Officer Frost then asked the driver to step out of his truck and Officer Frost called for a K-9 unit. Officer Cooper and his dog arrived on the scene, the dog sniffed the truck and alerted at the driver's-side door.

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¶4 Officer Cooper searched the truck and found a black sunglasses case containing a syringe and several packages containing methamphetamine. In a search incident to the truck driver's arrest, Officer Frost obtained a driver's license, which identified the driver as Knell.

¶5 The State indicted Knell of Possession of a Dangerous Drug for Sale (Methamphetamine), a class 2 felony, and Possession or Use of Drug Paraphernalia (Methamphetamine), a class 6 felony. After a three-day trial, a jury found Knell guilty of Possession of Drug Paraphernalia (Methamphetamine) and the lesser-included offense of Possession of a Dangerous Drug (Methamphetamine). The court found the State proved at least two prior historical felony convictions, and the court weighed aggravating and mitigating sentencing factors. The court sentenced Knell to ten years' imprisonment for count one and five years' imprisonment for count two, both sentences to run concurrently.

¶6 Knell 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(A)(1).

DISCUSSION

¶7 The record reflects no fundamental error in pretrial or trial proceedings, and it reflects that Knell received a fair trial. Knell was represented by counsel and present at all critical stages of the proceedings. The jury was properly composed of twelve jurors and two alternates. The superior court properly denied Knell's motion for acquittal, and the jury returned a unanimous verdict on both counts. The court received a presentence report, accounted for aggravating and mitigating factors, and provided Knell an opportunity to speak at sentencing. The court imposed a legal sentence for the crimes of which Knell was convicted.

CONCLUSION

¶8 We reviewed the entire record for reversible error and find none; therefore, we affirm the convictions and resulting sentences.

¶9 After the filing of this decision, defense counsel's obligation pertaining to Knell's representation in this appeal will end. Defense counsel need do no more than inform Knell 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. *See State v. Shattuck*, 140 Ariz. 582, 584-85 (1984). On the Court's own motion, Knell has thirty days from the date of this decision to proceed,

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if he wishes, with a *pro per* motion for reconsideration. Further, Knell has thirty days from the date of this decision to proceed, if he wishes, with a *pro per* petition for review.



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