

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL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

JAMES IVAN RACHAL, *Appellant*.

No. 1 CA-CR 18-0395
FILED 7-16-2019

Appeal from the Superior Court in Maricopa County
No. CR2016-137113-001
The Honorable Jay R. Adleman, Judge

AFFIRMED

COUNSEL

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

Bain & Lauritano, PLC, Glendale
By Amy E. Bain
Counsel for Appellant

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MEMORANDUM DECISION

Judge Maria Elena Cruz delivered the decision of the Court, in which Presiding Judge Lawrence F. Winthrop and Judge Kenton D. Jones joined.

C R U Z, Judge:

¶1 James Ivan Rachal timely appeals from his conviction and sentence for possession of a dangerous drug, a category four felony. Rachal admitted a prior felony conviction. After searching the record on appeal and finding no arguable question of law that was not frivolous, Rachal's counsel filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967), and *State v. Leon*, 104 Ariz. 297 (1969), asking this court to search the record for fundamental error. This court granted counsel's motion to allow Rachal to file a supplemental brief *in propria persona*, but Rachal did not do so. After reviewing the entire record, we find no fundamental error and, therefore, affirm Rachal's conviction and sentence.

FACTS AND PROCEDURAL BACKGROUND¹

¶2 On August 5, 2016, Rachal was driving a truck when he was stopped by a deputy for an unrelated criminal investigation. Rachal was the sole occupant of the vehicle. When asked whether the truck he was driving belonged to him Rachal answered "yes." An inventory search of the truck revealed a Tupperware package containing in excess of 20 grams of methamphetamine. The contraband was located underneath the driver's seat within his reach.

¶3 The State offered Rachal a plea agreement to Possession of Dangerous Drugs, a class 4 felony. However, Rachal rejected that offer in favor of a jury trial.

DISCUSSION

¶4 We have reviewed the entire record for reversible error and find none. *See Leon*, 104 Ariz. at 300. Rachal received a fair trial. He was

¹ We view the facts in the light most favorable to sustaining the jury's verdict and resolve all reasonable inferences against Rachal. *State v. Guerra*, 161 Ariz. 289, 293 (1989).

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represented by counsel at all stages of the proceedings and was present at all critical stages.

¶5 The evidence presented at trial was substantial and supports the verdict. The jury was properly comprised of eight members and the court properly instructed the jury on the elements of the charge, Rachal's presumption of innocence, the State's burden of proof, and the necessity of a unanimous verdict. The superior court received and considered a presentence report, Rachal was given an opportunity to speak at sentencing, and his sentence was within the range of acceptable sentences for his offense.

CONCLUSION

¶6 We decline to order briefing and affirm Rachal's conviction and sentence.

¶7 After the filing of this decision, defense counsel's obligations pertaining to Rachal's representation in this appeal have ended. Defense counsel need do no more than inform Rachal 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. *State v. Shattuck*, 140 Ariz. 582, 584-85 (1984).

¶8 Rachal has 30 days from the date of this decision to proceed, if he wishes, with an *in propria persona* petition for review. On the court's own motion, we also grant Rachal 30 days from the date of this decision to file an *in propria persona* motion for reconsideration.



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