

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL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

MACK MCGEE, III,
Appellant.

No. 1 CA-CR 19-0367

FILED 8-27-2020

Appeal from the Superior Court in Maricopa County
No. CR2018-002702-001
The Honorable Laura Johnson Giaquinto, Judge *Pro Tempore*

AFFIRMED

COUNSEL

Arizona Attorney General's Office, Phoenix
By Michael O'Toole
Counsel for Appellee

Maricopa County Public Defender's Office, Phoenix
By Dawnese Hustad
Counsel for Appellant

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MEMORANDUM DECISION

Presiding Judge David D. Weinzweig delivered the decision of the Court, in which Judge Jennifer M. Perkins and Judge James B. Morse Jr. joined.

WEINZWEIG, Judge:

¶1 Mack McGee appeals his conviction and sentence for possession of methamphetamine. After searching the record and finding no arguable, non-frivolous question of law, McGee’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. McGee had the opportunity to file a supplemental brief but did not. We affirm McGee’s conviction and sentence after reviewing the record.

FACTS AND PROCEDURAL BACKGROUND

¶2 A police officer stopped McGee for making an improper left-hand turn. McGee provided his name and date of birth but had no license. The officer learned that McGee’s license had been suspended and a warrant issued for his arrest. McGee was arrested. During a search incident to arrest, the officer found a glass pipe and small bag in McGee’s shorts. The Phoenix Crime Lab Report later determined the bag had 7.5 grams of methamphetamine.

¶3 McGee was charged with (Count 1) possession of dangerous drugs, a class four felony and (Count 2) possession of drug paraphernalia, a class six felony. The State alleged three prior felony convictions under A.R.S. § 13-703, making McGee a category three repetitive offender. The State alleged as a sentencing enhancement under A.R.S. § 13-708(C) that McGee committed the offense while on probation for three prior felony convictions. McGee pled not guilty and unsuccessfully moved to suppress evidence.

¶4 A jury trial was held. The arresting officer and the State’s forensic scientist testified. McGee did not testify or present evidence. The jury found McGee guilty on Count 1 but not guilty on Count 2. It also found grounds for aggravating circumstances. At the sentencing hearing, the State offered evidence and the court found that McGee had three prior

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felony convictions. McGee was sentenced to the mandatory term of ten years with credit for 268 days served. McGee timely appealed.

DISCUSSION

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

¶6 McGee was present and represented by counsel at all stages of the proceedings against him. The record reflects that the superior court afforded McGee all his constitutional and statutory rights, and that 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. McGee's sentence falls within the range prescribed by law, with sufficient credit given for presentence incarceration.

CONCLUSION

¶7 McGee's conviction and sentence are affirmed. Counsel's obligations in this appeal will end once McGee is informed of the outcome and his future options, unless 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, McGee has 30 days from the date of this decision to proceed with a pro se motion for reconsideration or petition for review.



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