

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED  
EXCEPT AS AUTHORIZED BY APPLICABLE RULES.  
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);  
Ariz. R. Crim. P. 31.24



DIVISION ONE  
FILED: 03/09/2010  
PHILIP G. URRY, CLERK  
BY: GH

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION ONE

STATE OF ARIZONA, ) 1 CA-CR 09-0270  
)  
Appellee, ) DEPARTMENT D  
)  
v. ) **MEMORANDUM DECISION**  
) (Not for Publication -  
SANDRA SUZANNE COLE, ) Rule 111, Rules of the  
) Arizona Supreme Court)  
Appellant. )  
)

Appeal from the Superior Court of Maricopa County

Cause No. CR2008-105055-001 DT

The Honorable Helene F. Abrams, Judge

**AFFIRMED**

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Terry Goddard, Attorney General Phoenix  
By Kent E. Cattani, Chief Counsel  
Criminal Appeals Section  
Attorneys for Appellee

James J. Haas, Public Defender Phoenix  
By Eleanor S. Terpstra, Deputy Public Defender  
Attorneys for Appellant

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T H O M P S O N, Judge

¶1 This case comes to us as an appeal under *Anders v. California*, 386 U.S. 738 (1967), and *State v. Leon*, 104 Ariz. 297, 451 P.2d 878 (1969). Counsel for Sandra Suzanne Cole (defendant) has advised us that, after searching the entire record, she has been unable to discover any arguable questions of law and has filed a brief requesting this court to conduct an *Anders* review of the record. Defendant has been afforded an opportunity to file a supplemental brief *in propria persona*, and she has not done so.

¶2 Police conducted a welfare check on an apartment after receiving a complaint from the tenant below about a water leak. When the police officer arrived, the door was open, and it appeared that there may have been a forced entry. After the officer knocked and announced his presence, the only response he heard was a muffled female voice. Due to the possible forced entry, the muffled voice, and the running water, the officer entered the apartment to determine if anyone inside was hurt. The officer saw a female, who was bailing water from a puddle near the bathroom, and a male. Another male was on the sofa and unresponsive. Defendant told the officer that she had been living in the apartment for approximately five months, although at trial defendant testified that she did not live there but had stayed there occasionally over the past several months and was there on the day in question to clean the apartment and do

laundry. The officer saw a metal spoon with burnt residue and syringes with fluid on a nightstand. Testing revealed that the substance on the metal spoon and inside the syringe was a usable quantity of methamphetamine.

¶13 The state charged defendant with possession or use of a dangerous drug, a class 4 felony, and possession of drug paraphernalia, a class 6 felony. She moved to suppress all evidence, arguing that it was illegally obtained as a result of an inappropriate protective sweep of a home. The state asserted that police made a warrantless entry under the emergency-aid exception and saw the evidence in plain view. After an evidentiary hearing, the trial court denied the motion to suppress. A jury convicted defendant of both counts. Defendant moved for a new trial, alleging that the verdict was contrary to law or the weight of the evidence and that that the trial court erred by not granting a mistrial after the arresting officer revealed that he previously had arrested defendant. The trial court denied the motion after finding that defendant had opened the door to the admission of this evidence and after instructing the jury to disregard the testimony at issue. The trial court left the class six offense undesignated and sentenced defendant to one year of probation on each count, to run concurrently. Defendant appealed.

¶14 We have read and considered counsel's brief and have

searched the entire record for reversible error. See *Leon*, 104 Ariz. at 300, 451 P.2d at 881. We find none. All of the proceedings were conducted in compliance with the Arizona Rules of Criminal Procedure. So far as the record reveals, defendant was represented by counsel at all stages of the proceedings, and the sentences imposed were within the statutory limits. Pursuant to *State v. Shattuck*, 140 Ariz. 582, 584-85, 684 P.2d 154, 156-57 (1984), defendant's counsel's obligations in this appeal are at an end.

¶15 We affirm the convictions and sentences.

\_\_\_\_\_/s/\_\_\_\_\_  
JON W. THOMPSON, Judge

CONCURRING:

\_\_\_\_\_/s/\_\_\_\_\_  
JOHN C. GEMMILL, Presiding Judge

\_\_\_\_\_/s/\_\_\_\_\_  
PATRICK IRVINE, Judge