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EXCEPT AS AUTHORIZED BY APPLICABLE RULES.  
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);  
Ariz. R. Crim. P. 31.24

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION ONE



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FILED: 07-29-2010  
PHILIP G. URRY, CLERK  
BY: DN

STATE OF ARIZONA, ) 1 CA-CR 09-0399  
)  
Appellee, ) DEPARTMENT A  
)  
v. ) **MEMORANDUM DECISION**  
) (Not for Publication -  
JAMES RAYMOND BAKER, ) Rule 111, Rules of the  
) Arizona Supreme Court)  
Appellant. )  
)

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Appeal from the Superior Court in Yavapai County

Cause No. CR P-1300-CR-0020080767

The Honorable Thomas B. Lindberg, Judge

**AFFIRMED**

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

Abigail Jensen, P.C. Prescott  
By Abigail Jensen  
Attorney for Appellant

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**W I N T H R O P**, Judge

¶1 James Raymond Baker ("Appellant") appeals his convictions and sentences for possessing a dangerous drug and

drug paraphernalia. Appellant's counsel has filed a brief in accordance with *Smith v. Robbins*, 528 U.S. 259 (2000); *Anders v. California*, 386 U.S. 738 (1967); and *State v. Leon*, 104 Ariz. 297, 451 P.2d 878 (1969), stating that she has searched the record on appeal and found no arguable question of law. Appellant's counsel therefore requests that we review the record for fundamental error. See *State v. Clark*, 196 Ariz. 530, 537, ¶ 30, 2 P.3d 89, 96 (App. 1999) (stating that this court reviews the entire record for reversible error). Although this court granted Appellant the opportunity to file a supplemental brief *in propria persona*, he has not done so.

¶2 We have appellate jurisdiction pursuant to the Arizona Constitution, Article 6, Section 9, and Arizona Revised Statutes ("A.R.S.") sections 12-120.21(A)(1) (2003), 13-4031 (2010), and 13-4033(A) (2010). Finding no reversible error, we affirm Appellant's convictions and sentences.

#### I. FACTS AND PROCEDURAL HISTORY

¶3 We review the facts in the light most favorable to sustaining the verdict and resolve all reasonable inferences against Appellant. See *State v. Kiper*, 181 Ariz. 62, 64, 887 P.2d 592, 594 (App. 1994).

¶4 On June 25, 2008, a grand jury issued an indictment charging Appellant with possession of a dangerous drug, (methamphetamine) a class four felony, and possession of drug

paraphernalia, a class six felony. See A.R.S. §§ 13-3407 (2010), -3415 (2010).<sup>1</sup> The State later alleged that Appellant had four historical prior felony convictions and was on probation for another felony at the time of the present offenses.

¶15 At trial, the State presented the following evidence: On June 15, 2008, at approximately 6:00 a.m., Deputy Bentley of the Yavapai County Sheriff's Office observed a car speeding towards Prescott Valley on Highway 69. While pulling the car over, Deputy Bentley noticed three individuals in the car, including an individual (Appellant) in the backseat who had been making furtive, suspicious movements before the vehicle came to a stop. Deputy Bentley first spoke with the driver of the car, the front seat passenger's boyfriend, who produced a suspended driver's license. Deputy Bentley spoke to the front seat passenger, who was the owner of the car. Appellant was in the backseat, and he appeared to be very nervous.

¶16 After Deputy Bentley called for assistance, he removed the driver from the vehicle and placed him under arrest for driving on a suspended license. After Deputy Dannison arrived, Deputy Bentley removed Appellant from the backseat of the vehicle. Before checking Appellant's pockets, Deputy Bentley

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<sup>1</sup> We cite the current version of the applicable statutes because no revisions material to this decision have occurred.

asked Appellant if "he had anything on his person that . . . would hurt or injure me" because he noticed a .380 automatic live round resting in Appellant's left ear. Deputy Bentley searched Appellant's pockets, and found a purple string, a cap to a hypodermic needle, and another .380 handgun round.

¶17 After finding the two rounds of ammunition on Appellant, Deputy Bentley then searched the backseat of the vehicle for a weapon. Deputy Bentley found a to-go Styrofoam food box that contained a black and white pouch tied shut with a piece of purple string. The string appeared to match the one that had been found in Appellant's front pocket. Deputy Bentley looked into the pouch, and saw the plunger caps to three syringes. The deputy asked Appellant whether he knew about the contents of the pouch and whether it was his. Appellant denied ownership. Deputy Bentley confronted Appellant about the matching string, but Appellant again denied ownership. The deputy placed Appellant under arrest.

¶18 Deputy Bentley and Deputy Dannison inventoried the vehicle before having it towed. During inventory, Deputy Bentley again looked through the black and white pouch, and

discovered that it contained the three syringes, bindles,<sup>2</sup> and some powdered substance later confirmed to be a useable quantity of methamphetamine. The deputies found additional hypodermic needles, a digital scale, and other drug paraphernalia throughout the backseat area, as well as a cell phone that was not claimed by any passenger. At the jail, Deputy Bentley spoke with Appellant again about all the items found in the car, and Appellant again denied ownership.

¶9 The jury found Appellant guilty as charged. At sentencing, the trial court determined that Appellant had four historical prior felony convictions and had committed the present offenses while on probation. The trial court sentenced Appellant to concurrent, slightly aggravated terms of eleven years' imprisonment in the Arizona Department of Corrections ("ADOC") for possession of a dangerous drug and four years' imprisonment in ADOC for possession of drug paraphernalia. Appellant filed a timely notice of appeal.

## II. ANALYSIS

¶10 We have reviewed the entire record for reversible error and find none. See *Leon*, 104 Ariz. at 300, 451 P.2d at 881; *Clark*, 196 Ariz. at 537, ¶ 30, 2 P.3d at 96. The evidence presented at trial was substantial and supports the verdict, and

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<sup>2</sup> A "bindle" is a descriptive term used by the police to signify a small container - such as a plastic bag or a pouch - sometimes used to carry illegal substances or paraphernalia.

the sentence was within the statutory limits. Appellant was represented by counsel at all stages of the proceedings and was given the opportunity to speak at sentencing. The proceedings were conducted in compliance with his constitutional and statutory rights and the Arizona Rules of Criminal Procedure.

¶11 After filing of this decision, defense counsel's obligations pertaining to Appellant's representation in this appeal have ended. Counsel need do no more than inform Appellant of the status of the appeal and of his future options, unless counsel's review reveals an issue appropriate for petition for review to the Arizona Supreme Court. See *State v. Shattuck*, 140 Ariz. 582, 584-85, 684 P.2d 154, 156-57 (1984). Appellant has thirty days from the date of this decision to proceed, if he desires, with a *pro per* motion for reconsideration or petition for review.

### III. CONCLUSION

¶12 Appellant's convictions and sentences are affirmed.

\_\_\_\_\_/S/\_\_\_\_\_  
LAWRENCE F. WINTHROP, Judge

CONCURRING:

\_\_\_\_\_/S/\_\_\_\_\_  
PATRICIA A. OROZCO, Judge

\_\_\_\_\_/S/\_\_\_\_\_  
DANIEL A. BARKER, Judge