

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  
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IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION ONE

STATE OF ARIZONA, )  
 ) No. 1 CA-CR 09-0775  
 )  
 Appellee, ) DEPARTMENT E  
 )  
 v. ) **MEMORANDUM DECISION**  
 )  
 BRIAN KEITH SANDERS, ) (Not for Publication -  
 ) Rule 111, Rules of the  
 Appellant. ) Arizona Supreme Court)  
 )  
 )

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Appeal from the Superior Court in Maricopa County

Cause No. CR2008-156273 DT

The Honorable Shellie Smith, Judge Pro Tempore

**AFFIRMED**

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

James Haas, Maricopa County Public Defender Phoenix  
by Christopher V. Johns, Deputy Public Defender  
Attorneys for Appellant

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H A L L, Judge

¶1 Brian Keith Sanders (defendant) appeals from his convictions and the sentences imposed. Defendant's appellate counsel filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967), and *State v. Leon*, 104 Ariz. 297, 451 P.2d 878 (1969), advising that, after a diligent search of the record, he was unable to find any arguable grounds for reversal. This court granted defendant an opportunity to file a supplemental brief, which he has not done. See *State v. Clark*, 196 Ariz. 530, 537, ¶ 30, 2 P.3d 89, 96 (App. 1999).

¶2 We review for fundamental error, error that goes to the foundation of a case or takes from the defendant a right essential to his defense. See *State v. King*, 158 Ariz. 419, 424, 763 P.2d 239, 244 (1988). We view the evidence presented in a light most favorable to sustaining the verdict. *State v. Cropper*, 205 Ariz. 181, 182, ¶ 2, 68 P.3d 407, 408 (2003). Finding no reversible error, we affirm.

¶3 Defendant was charged by information with: Count One - possession or use of narcotic drugs, a class four felony, in violation of Arizona Revised Statutes (A.R.S.) section 13-3408(A)(1) (2010); and Count Two - possession of drug paraphernalia, a class six felony, in violation of A.R.S. § 13-3415(A) (2010).

¶4 The following evidence was presented at trial. On December 15, 2006, while conducting routine patrol, Officer M.C.

of the Phoenix Police Department noticed defendant and another individual exit an apartment. The officer observed both individuals looking at a motorcycle that was for sale. The officer approached the individuals and "asked them how they were doing." Defendant did not answer, he just "stared" at the officer. Officer M.C. repeated the question and defendant was again nonresponsive.

¶15 Officer M.C. then asked defendant if he would mind showing him what was in his pockets. Defendant began pulling items out of his pockets, but the officer perceived that defendant was being "evasive" and trying to hide something.

¶16 Officer M.C. asked defendant if he could search his person and defendant consented. Officer M.C. only found cigarettes in defendant's shirt pocket. The officer then asked defendant "if he had any drugs or drug paraphernalia" in his backpack and defendant responded "I don't think so," "no," and consented to a search.

¶17 Officer M.C. found a cigarette pack in the backpack containing a "glass crack pipe" with "burnt residue and brillo" in it. He also found a clear baggie containing what appeared to be crack cocaine. Defendant stated he did not have any knowledge of the items and claimed the officer placed them there to frame him.

¶18 R.S. of the Phoenix Police Department Crime Laboratory testified that the substance retrieved from defendant's cigarette pack was cocaine base and weighed 100 milligrams. He further testified that it was in a usable form and condition.

¶19 After a two-day trial, the jury found defendant guilty as charged. The trial court sentenced defendant to eighteen months of supervised probation on both counts. The trial court further ordered the sentences to run concurrently.

¶10 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. Defendant was given an opportunity to speak before sentencing, and the sentence imposed was within statutory limits. Furthermore, based on our review of the record, there was sufficient evidence for the jury to find that defendant committed the offenses for which he was convicted.

¶11 After the filing of this decision, counsel's obligations pertaining to defendant's representation in this appeal have ended. Counsel need do no more than inform defendant of the status of the appeal and his future options, unless counsel's review reveals an issue appropriate for submission to the Arizona Supreme Court by petition for review. *See State v. Shattuck*, 140 Ariz. 582, 584-85, 684 P.2d 154, 156-

