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Ariz. R. Crim. P. 31.24



DIVISION ONE  
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RUTH WILLINGHAM,  
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IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION ONE

STATE OF ARIZONA, ) 1 CA-CR 10-0166  
)  
Appellee, ) DEPARTMENT C  
)  
v. ) **MEMORANDUM DECISION**  
) (Not for Publication -  
MICHAEL SAMUAL LAWSON, ) Rule 111, Rules of the  
) Arizona Supreme Court)  
Appellant. )  
)  
)  
\_\_\_\_\_ )

Appeal from the Superior Court in Maricopa County

Cause No. CR2009-030743-001 DT

The Honorable Connie Contes, Judge

**AFFIRMED**

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

James J. Haas, Maricopa County Public Defender, Phoenix  
By Kathryn L. Petroff, Deputy Public Defender  
Attorney for Appellant

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**D O W N I E**, Judge

¶1 Michael Samuel Lawson ("defendant") appeals his convictions for (1) molestation of a child; (2) three counts of sexual conduct with a minor; (3) sexual abuse; and (4) public sexual indecency to a minor. Pursuant to *Anders v. California*,

386 U.S. 738 (1967), and *State v. Leon*, 104 Ariz. 297, 451 P.2d 878 (1969), defense counsel has searched the record, found no arguable question of law, and requests that we review the record for fundamental error. See *State v. Richardson*, 175 Ariz. 336, 339, 857 P.2d 388, 391 (App. 1993). Defendant was given the opportunity to file a supplemental brief *in propria persona*, but has not done so. On appeal, we view the evidence in the light most favorable to sustaining the conviction. *State v. Tison*, 129 Ariz. 546, 552, 633 P.2d 355, 361 (1981).

#### **FACTS AND PROCEDURAL HISTORY**

¶12 During V.L.'s birthday party in August 2007, her daughter ("victim") told her that defendant, V.L.'s live-in boyfriend of five years, had been sexually inappropriate with her. V.L. ended the party and confronted defendant, demanding the house keys and ordering him to leave. She then called the police.

¶13 Detective Lawes interviewed the victim, who disclosed three separate incidents. The first happened when she was eleven or twelve and was lying under a blanket in front of the television. Defendant got under the blanket with her and began fondling her breasts and vagina over her clothes. During that same time period, defendant also began masturbating and asked the victim to "play with his penis." When she resisted, he told her to move her hands up and down on it. During this incident,

defendant also touched the victim's breasts. The third incident occurred when the victim was thirteen. Defendant walked into her bedroom, masturbating. He digitally penetrated her vagina until he ejaculated.

¶14 After the interview, the victim was taken for a medical examination, where she disclosed another incident occurring when she was twelve or thirteen. Defendant and the victim went to the store, and on the return trip, he pulled into a church parking lot and told her to get into the back of the truck. He removed her pants and began touching her vagina with his fingers and mouth. All of the offenses took place when V.L. was at work; frequently, defendant would call V.L. at work to find out when she was coming home.

¶15 Detective Lawes interviewed defendant, who initially denied everything. Later, defendant stated, "If I did this, it happened when I was drunk, and I don't remember doing it."

¶16 V.L. confronted defendant about the allegations while wearing a concealed microphone. Defendant admitted performing oral sex on the victim, digitally penetrating her, and touching and engaging in oral contact with her breasts.

¶17 Defendant was indicted for: count 1: molestation of a child; count 2: sexual conduct with a minor; count 3: public sexual indecency to a minor; count 4: sexual conduct with a minor; count 5: sexual abuse; and count 6: sexual conduct with

a minor. The State later amended the indictment to allege that there were multiple offenses not committed on the same occasion.

¶18 A four-day jury trial commenced in October 2009. After the State's case-in-chief, defendant moved for a judgment of acquittal pursuant to Rule 20, Arizona Rules of Criminal Procedure; it was denied. The jury found defendant guilty on all counts, with special findings that the victim was under fifteen years of age at the time of the sexual abuse and sexual conduct with a minor offenses. Defendant was sentenced as follows: count 1: seventeen years' imprisonment (flat time), to be served on completion of the sentence in count 6 and concurrent with counts 3 and 5; count 2: twenty years' imprisonment (flat time); count 3: 1.5 years' imprisonment, to be served on completion of the sentence in count 6 and concurrent with counts 1 and 5; count 4: twenty years' imprisonment (flat time), to be served on completion of the sentence in count 2; count 5: five years' imprisonment on completion of the sentence in count 6 and concurrent with counts 1 and 3; count 6: 20 years' imprisonment (flat time) to be served on completion of the sentence in count 4.

¶19 Defendant timely appealed. We have jurisdiction pursuant to Article 6, Section 9 of the Arizona Constitution, and Arizona Revised Statutes ("A.R.S.") sections 12-120.21(A)(1), 13-4031, and 13-4033(A)(1).

## DISCUSSION

¶10 We have read and considered the brief submitted by defense counsel and reviewed the entire record. We find no fundamental error. All of the proceedings were conducted in compliance with the Arizona Rules of Criminal Procedure. Defendant was represented by counsel at all critical stages and was present for trial. There were no irregularities in the deliberation process. The sentences imposed were within the statutory range.

¶11 The trial court properly denied defendant's Rule 20 motion. A judgment of acquittal is appropriate only when there is "no substantial evidence to warrant a conviction." Ariz. R. Crim. P. 20. Substantial evidence is such proof that "reasonable persons could accept as adequate and sufficient to support a conclusion of defendant's guilt beyond a reasonable doubt." *State v. Mathers*, 165 Ariz. 64, 67, 796 P.2d 866, 869 (1990) (citations omitted). "Reversible error based on insufficiency of the evidence occurs only where there is a complete absence of probative facts to support the conviction." *State v. Soto-Fong*, 187 Ariz. 186, 200, 928 P.2d 610, 624 (1996).

¶12 The State presented substantial evidence of guilt, including admissions defendant made to V.L., as well as testimony by V.L. and the victim. Although defendant testified

he did not commit the offenses, "[n]o rule is better established than that the credibility of the witnesses and the weight and value to be given to their testimony are questions exclusively for the jury." *State v. Clemons*, 110 Ariz. 555, 556-57, 521 P.2d 987, 988-89 (1974).

### CONCLUSION

¶13 We affirm defendant's convictions and sentences. Counsel's obligations pertaining to defendant's representation in this appeal have ended. Counsel need do nothing 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. *State v. Shattuck*, 140 Ariz. 582, 584-85, 684 P.2d 154, 156-57 (1984). On the court's own motion, defendant shall have thirty days from the date of this decision to proceed, if he so desires, with an *in propria persona* motion for reconsideration or petition for review.

/s/

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MARGARET H. DOWNIE, Judge

CONCURRING:

/s/

\_\_\_\_\_  
MAURICE PORTLEY, Presiding Judge

/s/

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PATRICIA A. OROZCO, Judge