

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: 12/07/10
RUTH WILLINGHAM,
ACTING CLERK
BY: DLL

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

STATE OF ARIZONA,) No. 1 CA-CR 10-0253
)
) DEPARTMENT B
Appellee,)
) **MEMORANDUM DECISION**
v.)
) (Not for Publication -
DIANA LYNN WOODALL,) Rule 111, Rules of the
) Arizona Supreme Court)
Appellant.)
)
)

Appeal from the Superior Court in Maricopa County

Cause No. CR2007-123162-001DT

The Honorable Edward O. Burke, Judge

AFFIRMED

Terry Goddard, 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 Joel M. Glynn, Deputy Public Defender
Attorneys for Appellant

J O H N S E N, Judge

¶1 This appeal was timely filed in accordance with *Anders*
v. California, 386 U.S. 738 (1967), and *State v. Leon*, 104 Ariz.

297, 451 P.2d 878 (1969), following Diana Lynn Woodall's conviction of one count of possession or use of narcotic drugs, a Class 4 felony. Woodall's counsel has searched the record on appeal and found no arguable question of law that is not frivolous. See *Smith v. Robbins*, 528 U.S. 259 (2000); *Anders*, 386 U.S. 738; *State v. Clark*, 196 Ariz. 530, 2 P.3d 89 (App. 1999). Woodall was given the opportunity to file a supplemental brief, but did not do so. Counsel now asks this court to search the record for fundamental error. After reviewing the entire record, we affirm Woodall's conviction and imposition of probation.

FACTS AND PROCEDURAL HISTORY

¶12 Police stopped Woodall for failing to stop at an intersection. She was arrested because she could not produce her driver license, car registration or proof of insurance. Police subsequently searched her vehicle and found a bag containing white rocks that Woodall later stipulated were crack cocaine. Woodall was charged with possession or use of narcotic drugs, a Class 4 felony, but prosecution was suspended to allow her to complete a diversion program. Prosecution resumed after Woodall failed to fulfill the conditions of the program. A jury found her guilty of the charge. The court suspended her sentence and placed her on probation for four years.

¶13 Woodall 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) (2003), 13-4031 (2010) and -4033(A)(1) (2010).¹

DISCUSSION

¶14 The record reflects Woodall received a fair trial. She was represented by counsel at all stages of the proceedings against her and was present at all critical stages. The State presented both direct and circumstantial evidence sufficient to allow the jury to convict. The jury was properly comprised of eight members with one alternate. The court properly instructed the jury on the elements of the charge, the State's burden of proof and the necessity of a unanimous verdict. The jury returned a unanimous verdict, which was confirmed by juror polling. The court received and considered a presentence report and addressed its contents during the sentencing hearing and imposed probation for the crime of which Woodall was convicted.

CONCLUSION

¶15 We have reviewed the entire record for reversible error and find none. See *Leon*, 104 Ariz. at 300, 451 P.2d at 881.

¹ Absent material revisions after the date of an alleged offense, we cite a statute's current version.

¶6 After the filing of this decision, defense counsel's obligations in this appeal have ended. Defense counsel need only inform Woodall of the outcome of this appeal and her future options, unless, upon review, 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, 684 P.2d 154, 156-57 (1984). On the court's own motion, Woodall has 30 days from the date of this decision to proceed, if she wishes, with a *pro per* motion for reconsideration. Woodall has 30 days from the date of this decision to proceed, if she wishes, with a *pro per* petition for review.

/s/
DIANE M. JOHNSEN, Presiding Judge

CONCURRING:

/s/
MICHAEL J. BROWN, Judge

/s/
JOHN C. GEMMILL, Judge