

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

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE



DIVISION ONE
FILED: 07/26/2011
RUTH A. WILLINGHAM,
CLERK
BY: DLL

STATE OF ARIZONA,) 1 CA-CR 10-0562
) 1 CA-CR 10-0563
Appellee,) 1 CA-CR 10-0564
) (Consolidated)
v.)
) DEPARTMENT E
)
NANCY PATRICIA WALKNEY,) **MEMORANDUM DECISION**
) (Not for Publication -
Appellant.) Rule 111, Rules of the
) Arizona Supreme Court)
)
)

Appeal from the Superior Court in Maricopa County

Cause Nos. CR2006-031338-002 SE,
CR2007-144239-001 SE, CR2008-177728-01 DT
(Consolidated)

The Honorable Edward O. Burke, Judge

AFFIRMED

Thomas C. Horne, 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 Christopher Johns, Deputy Public Defender
Attorneys for Appellant

P O R T L E Y, Judge

¶1 This is 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 Defendant Nancy Patricia Walkney has advised us that, after searching the entire record, he has been unable to discover any arguable questions of law, and has filed a brief requesting us to conduct an *Anders* review of the record. Defendant was given an opportunity to file a supplemental brief, and has not filed one.

FACTS¹

¶2 Defendant offered to sell drugs to a confidential informant. The informant told Tempe Police Detective McCluskey about the planned sale, and both went to Phoenix to make the purchase. Detective McCluskey, however, called off the planned purchase and instead had Officer Espinoza stop Defendant's truck.

¶3 After the truck was stopped, Detective McCluskey arrived, and asked Defendant if she was carrying drugs. She denied having drugs but consented to a search of her truck. A police dog was walked around the truck, and it signaled to the presence of illegal drugs. They searched and found a pipe with methamphetamine residue, and a scale. Defendant was then

¹ We review the facts in the light most favorable to sustaining the verdict. See *State v. Guerra*, 161 Ariz. 289, 293, 778 P.2d 1185, 1189 (1989).

arrested for possession of drug paraphernalia, searched, and a half ounce of methamphetamine was found in her pants.

¶4 Defendant was taken to jail, read the *Miranda*² warnings, and she then admitted to using and selling methamphetamine. She was subsequently charged with transporting a dangerous drug for sale, a class 2 felony; and possessing drug paraphernalia, a class 6 felony. She was convicted by a jury as charged, and later sentenced to ten years in prison for the drug charge,³ and one year for the drug paraphernalia charge, to be served concurrently. She was also given credit for 164 days of presentence incarceration.

¶5 We have jurisdiction over this appeal 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, and -4033(A)(1) (2010).

DISCUSSION

¶6 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

² *Miranda v. Arizona*, 384 U.S. 436 (1966).

³ Because the offense involved methamphetamine, Defendant was sentenced pursuant to A.R.S. § 13-712(A) (2008), which imposes a minimum sentence of five years, presumptive sentence of ten years and a maximum sentence of fifteen years. She was not eligible for the minimum sentence, however, because she was on probation for a prior felony offense at the time of her arrest. See A.R.S. § 13-604.02(B) (2008).

proceedings were conducted in compliance with the Arizona Rules of Criminal Procedure. The record, as presented, reveals that Defendant was represented by counsel at all stages of the proceedings, and the sentence imposed was within the statutory limits.

CONCLUSION

¶7 After this decision has been filed, counsel's obligation to represent Defendant in this appeal has ended. Counsel need do no more than inform Defendant of the status of the appeal and Defendant's 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, 585, 684 P.2d 154, 157 (1984). Defendant can, if desired, file a motion for reconsideration or petition for review pursuant to the Arizona Rules of Criminal Procedure.

¶8 Accordingly, we affirm Defendant's convictions and sentences.

/s/ _____
MAURICE PORTLEY, Judge

CONCURRING:

/s/ _____
PETER B. SWANN, Presiding Judge

/s/ _____
PATRICK IRVINE, Judge