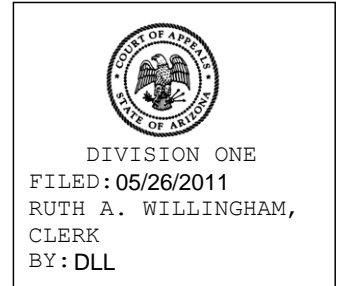


NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED  
EXCEPT AS AUTHORIZED BY APPLICABLE RULES.  
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);  
Ariz. R. Crim. P. 31.24

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION ONE



STATE OF ARIZONA, ) 1 CA-CR 10-0607  
)  
Appellee, ) DEPARTMENT B  
)  
v. ) **MEMORANDUM DECISION**  
)  
SANDRA HELEN ALCANTAR, )  
) (Not for Publication -  
) Rule 111, Rules of the  
) Arizona Supreme Court)  
)  
)  
)  
)  
)

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Appeal from the Superior Court in Maricopa County

Cause No. CR2009-158983-001 DT

The Honorable Margaret R. Mahoney, Judge

**AFFIRMED**

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Thomas C. 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 Louise Stark, Deputy Public Defender  
Attorneys for Appellant

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**B A R K E R**, Judge

¶1 Sandra Helen Alcantar ("Alcantar") appeals from her conviction and sentence for one count of possession of dangerous drugs, a class 4 felony. Alcantar was sentenced on July 8, 2010, and timely filed a notice of appeal on July 16, 2010. Alcantar's 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 this court that after searching the entire record on appeal, she finds no arguable ground for reversal. Alcantar was granted leave to file a supplemental brief *in propria persona* on or before March 14, 2011. Alcantar was further granted an extension of time to file a supplemental brief to and including April 25, 2011 and did not do so. She did raise, however, five issues on appeal through her counsel.

¶2 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 13-4033(A)(1) (2010). We are required to search the record for reversible error. *Leon*, 104 Ariz. at 299, 451 P.2d at 880. Because we find no such error, we affirm.

### ***Facts and Procedural History***

¶3 Around midnight on September 9, 2009, officers on duty contacted Alcantar at 1939 W. Van Buren Street, Phoenix. Alcantar was arrested on the sidewalk in front of a small hotel

at this location, seven blocks from her home address of 1329 W. Woodland Avenue.

¶14 The police officer conducted a search of Alcantar's purse and found a substance wrapped in a small square of "white plastic cellophane wrap." The officer's training and experience suggested this substance was methamphetamine. After reading Alcantar her *Miranda*<sup>1</sup> rights, the officer questioned her at the police station. At trial, the officer testified that Alcantar told him the following: Alcantar said she was suffering from a nervous breakdown and "decided to get herself a little shoot." Further, she didn't remember where she had gotten the drugs, and the drugs had been in her purse for days because she didn't have a pipe. She also stated the drugs were "the first batch in a long time" and cost twenty dollars. Finally, Alcantar told the officer she had begun using meth two weeks before the arrest. The officer further testified he impounded the drugs in Exhibit 1. The substance in Exhibit 1 was analyzed at the crime lab and found to be 230 milligrams, a useable quantity and condition of methamphetamine.

¶15 Alcantar testified at trial. In her testimony, she described the unsafe nature of her living environment one block south of Van Buren, specifically, the repeated burglary of her home. She stated burglars had left a substance she thought was

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<sup>1</sup> *Miranda v. Arizona*, 384 U.S. 436 (1966).

crack cocaine at her home which she rolled up and tucked in a wallet in her purse. Alcantar testified she did this to show the substance to the police as proof that burglars were breaking in and leaving things in her home.

¶16 Alcantar testified that on September 9, 2009, she walked to 1939 W. Van Buren Street. Alcantar proceeded to watch police officers conducting an arrest when one of the police officers approached her and asked if he could search her purse. Upon searching Alcantar's purse, the officer found a substance wrapped in a small square of "white plastic cellophane wrap." Alcantar testified that some unknown person put the meth in her purse. She refuted the officer's testimony regarding her statements during the interview at the police station, confirming only the statement about her nervous breakdown.

¶17 On October 29, 2009, Alcantar was charged with possession of dangerous drugs, a class 4 felony. Alcantar's case proceeded to trial where she and her counsel were present at all critical stages. Her appointed counsel filed for a Rule 11 examination, and Alcantar was found competent to stand trial after an expert examination. The State alleged historical priors, non-historical priors, and priors for impeachment. Only one prior offense from 1996 was admissible for impeachment.

¶18 At the conclusion of the trial, an eight-person jury found Alcantar guilty as charged. At sentencing on July 1,

2010, the State was unprepared to prove historical priors. Alcantar was provided with the opportunity to speak. Subsequently, Alcantar was placed on supervised probation for three years with six months of jail as a condition of probation.

### ***Discussion***

¶9 Alcantar through her counsel raises five issues. As we explain below, they are without merit.

#### ***1. Inability to Present Evidence due to Speedy Trial Rules***

¶10 Alcantar raises three issues through counsel pertaining to the inability to present evidence due to speedy trial rules. Alcantar contends she was unable to present evidence of the following: stolen identity, unstable mental health, negative drug testing, and burglarized home with items altered or left there. Although she complains that the speedy trial rules precluded her from presenting evidence, Alcantar never requested any continuance. See Ariz. R. Crim. P. 8.5. In addition, Alcantar was present at all critical stages of the trial and, therefore, had opportunity to raise such evidence. In fact, Alcantar did include each of these factors in her testimony at trial. Further, concerning her unstable mental health, counsel did raise a Rule 11 motion regarding Alcantar's mental capacity and after expert examination, Alcantar was declared competent to stand trial. In sum, the adherence to

speedy trial rules was appropriate, no motion for continuance was filed, and there was no fundamental error.

## **2. False Testimony**

¶11 Alcantar asserts police testified they pulled her over in a car, when in fact, she was on foot. Alcantar misstates the record. The officer testified Alcantar "was standing on the sidewalk directly in front of the hotel" when contacted by the police. Accordingly, there is no fundamental error.

## **3. Insufficient Evidence**

¶12 Alcantar contends there was insufficient evidence of her possession of methamphetamine due to the lack of fingerprint evidence. "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. Scott*, 113 Ariz. 423, 424-25, 555 P.2d 1117, 1118-19 (1976). According to A.R.S. § 13-3407, possession of a drug requires knowingly possessing a dangerous drug and that the drug is, in fact, dangerous. In his testimony, the officer recalled several statements by Alcantar in which she acknowledged her ownership of the methamphetamine and the officer's discovery of the drug in her purse. This testimony supported Alcantar's knowing possession of a drug, which was in fact a "dangerous" one. Further, a criminalist confirmed the scientific testing of the substance, proving it to be a useable quantity of

methamphetamine. By definition under § 13-3401, methamphetamine is a dangerous drug. With this evidence, the State sufficiently proved Alcantar's knowing possession of a dangerous drug. There was no need for further evidence of fingerprints or DNA analysis. Consequently, there is no fundamental error.

### ***Disposition***

¶13 In addition to addressing the foregoing issues raised by Alcantar, we have reviewed the record and have found no meritorious grounds for reversal of Alcantar's conviction or for modification of the sentence imposed. See *Anders*, 386 U.S. at 744; *Leon*, 104 Ariz. at 300, 451 P.2d at 881. Alcantar was present at all critical stages of the proceedings and was represented by counsel. All proceedings were conducted in accordance with the Arizona Rules of Criminal Procedure. Accordingly, we affirm.

¶14 After the filing of this decision, counsel's obligations in this appeal have ended subject to the following. Counsel need do no more than inform Alcantar of the status of the appeal and her 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). Alcantar has thirty days from the date of this decision to proceed, if she

desires, with a *pro per* motion for reconsideration or petition  
for review.

/s/

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DANIEL A. BARKER, Judge

CONCURRING:

/s/

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PETER B. SWANN, Presiding Judge

/s/

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PATRICIA K. NORRIS, Judge