

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



DIVISION ONE
FILED: 07-13-2010
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IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

In re Manuel C.) 1 CA-JV 10-0117
)
) DEPARTMENT C
)
)
) **MEMORANDUM DECISION**
) (Not for Publication -
) Rule 103(G) Ariz. R.P.
) Juv. Ct.; Rule 28
) ARCAP)
)

Appeal from the Superior Court in Yuma County

Cause No. S1400JV20090109

The Honorable John N. Nelson, Judge

AFFIRMED

Jon Smith, Yuma County Attorney Yuma
By Mark Hessinger, Deputy County Attorney
Attorney for Appellee

Michael A. Breeze, Yuma County Public Defender Yuma
By John A. Cicala, Deputy Public Defender
Attorney for Appellant

K E S S L E R, Judge

¶1 Manuel C. ("Juvenile") filed an *Anders* appeal from the superior court's acceptance of his plea agreement and subsequent

disposition. See *Anders v. California*, 386 U.S. 738 (1967); *In re Maricopa County Juv. Action No. JV-117258*, 163 Ariz. 484, 485-87, 788 P.2d 2135, 1236-38 (App. 1989). The superior court accepted his plea of violating probation and delinquency resulting from the possession of marijuana while on intensive probation and committed him to a minimum stay of six months in the Arizona Department of Juvenile Corrections ("ADJC"). We have searched the record for fundamental error. Finding none, we affirm the superior court's adjudication of delinquency and disposition.

FACTUAL AND PROCEDURAL HISTORY

¶2 The State filed a petition to revoke Juvenile's probation alleging that Juvenile violated the terms of his probation by (1) possessing marijuana, (2) possessing marijuana for sale, and (3) possessing drug paraphernalia. The State subsequently filed an additional petition for probation revocation alleging that Juvenile violated the terms of his probation by (1) failing to attend school and failing to notify his probation officer of his failure to attend school, (2) violating his curfew and failure to specify his whereabouts in a JIPS note, and (3) possessing writings related to the "Varrio Soma Gang". The State also filed a petition that Juvenile be adjudicated delinquent alleging that he (1) possessed marijuana for sale, (2) possessed marijuana, and (3) possessed drug

paraphernalia. The offenses alleged in each petition occurred on the same date.

¶13 Prior to accepting Juvenile's plea, the superior court determined that he was making the plea knowingly, intelligently, and voluntarily. The court informed Juvenile of the nature of the charges, the nature and range of possible dispositions including the likelihood of commitment if he pled responsible, and Juvenile's constitutional rights, including the right to contest the charges, the right to counsel if he chose to contest the charges, the right to the presumption of innocence, the right to cross-examine witnesses and present evidence, and the right to remain silent.

¶14 After the colloquy and plea, Juvenile admitted that he possessed marijuana. Juvenile admitted that he placed the marijuana into several separate baggies and possessed it for sale. Juvenile also admitted that the separate baggies he placed the marijuana into were drug paraphernalia.

¶15 The superior court accepted Juvenile's plea regarding (1) possessing marijuana, (2) possessing marijuana for sale, and (3) possessing drug paraphernalia on the termination petition and to possession of marijuana on the new delinquency petition. The remaining charges were dismissed with prejudice.

¶16 Prior to sentencing, the superior court received a pre-disposition report and a supplemental pre-disposition

report. The supplemental pre-disposition report recommended commitment to ADJC for a minimum stay of six months. The court stated that it had considered the report and was following its recommendation because no other service was appropriate for Juvenile under the circumstances. Juvenile was represented by counsel and permitted to speak. The superior court committed Juvenile to ADJC until his 18th birthday with a minimum stay of six months. Juvenile filed a timely notice of appeal. This Court has jurisdiction pursuant to Arizona Revised Statutes ("A.R.S.") section 8-235(A) (2007) and Arizona Rule of Procedure for the Juvenile Court 103(A).

ANALYSIS

¶17 This Court has reviewed the entire record for fundamental error. After careful review of the record, we find no meritorious grounds for reversal or modification of Juvenile's disposition. The plea has a factual basis, the court determined that it was knowing, intelligent, and voluntary, Juvenile was represented by counsel at all critical stages, the proceeding was conducted in accordance with the Arizona Rules of Procedure for the Juvenile Court, and the disposition was within the range permitted by statute.

¶18 Pursuant to *State v. Shattuck*, 140 Ariz. 582, 584-85, 684 P.2d 154, 156-57 (1984), appellant's counsel's obligations in this appeal are at an end. Counsel need do no more than

inform Juvenile of the status of the appeal and Juvenile's future options, unless counsel's review reveals an issue appropriate for submission to the Arizona Supreme Court by petition for review. See Ariz. R.P. Juv. Ct. 107(A); see also Ariz. R.P. Juv. Ct. 107(J).

CONCLUSION

¶19 For the foregoing reasons, we affirm the superior court's acceptance of Juvenile's plea agreement and disposition.

/S/

DONN KESSLER, Judge

CONCURRING:

/S/

MARGARET H. DOWNIE, Presiding Judge

/S/

PETER B. SWANN, Judge