DIVISION ONE
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RUTH A. WILLINGHAM, CLERK
BY: DLL

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

STATE OF ARIZONA,	)	No. 1 CA-CR 10-0031
Appellee,	)	DEPARTMENT B
v.	)	**MEMORANDUM DECISION**
GREGORY KEITH JONES,	)	(Not for Publication – Rule 111, Rules of the Arizona Supreme Court)
Appellant.	)	

Appeal from the Superior Court in Maricopa County

Cause No. CR2008-122125-001SE

The Honorable James T. Blomo, Judge

AFFIRMED

Thomas Horne, Arizona Attorney General — Phoenix
By Kent E. Cattani, Chief Counsel,
Criminal Appeals/Capital Litigation Section
And
Craig W. Soland, Assistant Attorney General
Attorneys for Appellee

James J. Haas, Maricopa County Public Defender — Phoenix
By Edith M. Lucero, Deputy Public Defender
Attorneys for Appellant

S W A N N, Judge

¶1 Defendant, Gregory Keith Jones, appeals from his convictions and sentences on ten felony offenses, including possession of narcotic drugs for sale (4 counts), possession of dangerous drugs for sale (3 counts), possession of drug paraphernalia, money laundering in the second degree and illegal control of an enterprise. Defendant argues on appeal that the trial court abused its discretion when it denied his motion to suppress evidence without holding an evidentiary hearing and when it denied his request for a continuance, and that there is insufficient evidence to support his "serious drug offender" conviction. Because we find that the trial court was not required to hold an evidentiary hearing on the motion to suppress, that Defendant was not entitled to a continuance, and that the evidence was sufficient to support his "serious drug offender" conviction, we affirm.

FACTS AND PROCEDURAL HISTORY[1]

¶2 On January 10, 2008, Scottsdale Police Officer Timothy Edwards contacted Defendant at his home in south Scottsdale ("the Residence") during a "patrol response." Though the home was located in a working or middle class area Edwards observed a Bentley -- which he had never seen in his 15 years working that

[1] We view the evidence in the light most favorable to sustaining the convictions and resolve all reasonable inferences against defendant. *State v. Manzanedo*, 210 Ariz. 292, 293, ¶ 3, 110 P.3d 1026, 1027 (App. 2005) (citation omitted).

neighborhood -- in the garage and "at least a hundred shoe boxes" some of which he confirmed were filled with Nike shoes.[2] When Edwards asked Defendant what he did for a living, he initially replied that he owned Tipps Barbecue, but then stated that his sister owned it and that he was "helping her out." Edwards told Defendant that he had never heard of Tipps Barbecue and when he asked for "some reference," Defendant told him he also did consulting for a Phoenix real estate firm.

¶3 After speaking with Defendant, Edwards relayed his observations to his supervisor and eventually to Scottsdale Police Detective Scott Dersa of the narcotics investigations unit. In January 2008, Dersa, along with other officers, began a three-month surveillance of Defendant. During the surveillance, Dersa personally observed Defendant using multiple vehicles to make multiple trips between Tipps Barbecue, the Residence, a condominium at the Cofco Center Court complex ("the Condo"), and a U-Haul storage unit ("the Unit") on east McDowell Road. Based on his observations, Dersa had a motion-activated video camera installed in the public hallway of the U-Haul facility on March 20, 2008. The camera captured Defendant entering the Unit on March 20, 22, 27 and 31, and April 1, 3 and

[2] When questioned about the boxes of shoes, Defendant told Edwards he had a "shoe fetish."

7.[3] Still photos generated from the video showed Defendant handling a box containing several white plastic bottles located on a shelf in the Unit and retrieving what appeared to be "blister packs" from another box. On March 27 and 31, Dersa observed Defendant leaving the facility with some shoe boxes from the Unit.

¶4 Based on the surveillance information, Dersa drafted and obtained eight search warrants, including warrants for the Unit, Tipps Barbecue, the Residence and the Condo. During the search of the Unit on April 7, 2008, officers found many boxes containing numerous bottles and containers of prescription narcotic drugs, including: 3,000 tablets containing hydrocodone; 100 tablets containing morphine; 100 pills containing oxycodone; 3,300 pills containing hydrocodone; 289 capsules containing morphine; 3500 tablets containing methadone; 2,400 tablets containing alprazolam; 471 tablets containing morphine; 828 milliliters of liquid containing promethazine with codeine and 1 bottle of codeine; 3,300 tablets containing hydromorphine; 500 tablets containing diazepam; 200 tablets containing oxycodone; 100 tablets containing meperidine; 200 tablets containing methylphenidate; 500 tablets containing hydrocodone; 100 tablets containing hydromorphone; 1,200 tablets containing alprazolam;

[3] The camera did not record any other individual entering the Unit during that period of time, and Dersa never observed anyone else walking in that hallway during his surveillance.

and 13,964 tablets of alprazolam (contained in jars). All of the various drugs were in usable amounts, including those in liquid form. In all, the quantity of drugs found at the storage unit amounted to "over 34,000 dosage units"[4] or the equivalent of what would be stocked by a mid-range Fry's Pharmacy. Police also located a briefcase containing "rubber-banded" bills in stacks labeled "1- or 2000" that added up to a total of $40,500; a roll of "large industrial shrink wrap"; and a number of empty shoeboxes.

¶5 On April 8, 2008, Scottsdale Police executed a search warrant on the Condo at the Cofco Center Court complex. During surveillance, police had observed Defendant leaving the Condo and locking the front door with a key. The police found a newer model silver Mercedes-Benz and a newer model white Dodge Magnum that they had seen Defendant use. Inside the Dodge, police found two driver licenses in the name of "Henry Griffin," but bearing Defendant's photograph. Police also found a "money counter" under a bed in one bedroom, "U.S. currency . . .

[4] Dersa estimated the approximate street value of the drugs as: $2/pill for diazepam; $5/pill for alprazolam/Xanax, methadone, meperidine/Demerol, hydrocodone (commonly known as Vicodin); $5-8/pill for Percocet/Endocet, an oxycodone similar to OxyContin; $15/pill for Avinza/morphine and/or morphine sulfate; $40/pill for hydromorphone; and $60-80/pill for an 80 milligram dose of OxyContin. One open bottle contained OxyContin in 80 milligram pills with a street value of $60/pill.

stacked in rubber bands" in a dresser drawer, and the keys to the Mercedes.

¶6 When executing the warrant for the Residence, officers found in the garage the Bentley, which was registered to an "LLC in the State of California." And beneath a large box in the garage, they found a large metal plate that concealed a safe in the concrete floor. Inside the safe, there were several shoe boxes containing stacks of U.S. currency totaling approximately $231,000. A wallet containing bank cards bearing Defendant's name, a checkbook bearing Defendant's name on the checks, and the key to the Bentley were also inside the safe. In an attic space above the garage, police located "financial paperwork."

¶7 After completing the search of the Residence, Dersa interviewed Defendant,[5] who was already under arrest. Dersa offered to read Defendant his *Miranda* rights a second time,[6] but Defendant waived them and agreed to speak with him. Defendant initially denied that he sold narcotic drugs, but after being shown the surveillance photographs of him at the storage unit, Defendant told Dersa "to think of him . . . [as] somewhat of a

[5] The interview was taped, and a copy of the taped interview was entered into evidence and given to the jury to listen to when deliberating.

[6] The officer who transported Defendant to the jail had previously read him his *Miranda* rights.

mule"[7] -- that he "move[d] things." Defendant also told Dersa that "guys [came] from all over the country for [the drugs]." When Dersa asked him about the prescription drugs, Defendant said he was "compensated for his role."

¶8 Defendant admitted that the contents of the Unit were his and that he rented it under the name "Michael Griffin." Defendant also admitted using the name "Michael Griffin" when co-signing on the lease for the Condo and that he paid cash for the Unit. Defendant claimed ownership of one of the cash-filled shoeboxes[8] found in the safe and identified the box containing $40,000 as one that was "owed to somebody for a quantity . . . of drugs that he had received and that quantity was kind of fronted," and that "people would be after that money."

¶9 Defendant continued to maintain that he worked at Tipps Barbecue, where he was paid in cash. Defendant told Dersa that he helped his son, a college student in San Diego, "get" the Residence "as a business investment," to help his son improve his credit rating. Defendant denied owning the Bentley parked in the garage at the house, and claimed that it came from

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[7] At trial, Dersa explained that a "mule" was "a middleman" and that "there would be a head of an organization that kind of calls the shots . . . [and] [a] mule would usually be literally somebody who is in charge of moving product from one location to another."

[8] One of the boxes contained cash in the form of "old bills," on which the presidents' depictions were smaller, which Defendant said he liked and collected.

California and belonged to a friend who kept it at the Residence. Defendant maintained that the Mercedes he was seen riding in "belonged to somebody locally . . . who could no longer afford to make the payments," therefore he had taken over the payments to help out the registered owner. The Dodge Magnum, which Defendant stated he obtained "from a local car lot," had a temporary registration under the name "Michael Griffin."

¶10 On April 18, 2008, the state charged Defendant by indictment with: Count 1,[9] possession of narcotic drugs for sale (hydrocodone), a class 2 felony; Count 2, possession of narcotic drugs for sale (codeine), a class 2 felony; Count 3, possession of narcotic drugs for sale (oxycodone), a class 2 felony; Count 4, possession of narcotic drugs for sale (morphine), a class 2 felony; Count 5, possession of dangerous drugs for sale (diazepam), a class 2 felony; Count 6, possession of dangerous drugs for sale (methylphenidate), a class 2 felony; Count 7, possession of dangerous drugs for sale (alprazolam), a class 2 felony; Count 8, possession of drug paraphernalia, a class 6 felony; Count 9, money laundering in the second degree, a class 3 felony; and Count 10, illegal control of an enterprise, a

[9] Count 1 initially charged sale or transportation of marijuana over two pounds, a class 2 felony. However, the state dismissed this charge, with Defendant's agreement, before trial and the remaining counts were renumbered accordingly.

class 3 felony. Before trial, the state alleged that Defendant was a serious drug offender pursuant to A.R.S. § 13-3410.

I. THE MOTION TO SUPPRESS EVIDENCE FROM THE UNIT

¶11 On March 17, 2009, Defendant filed a motion to suppress the evidence obtained from the execution of the search warrant at the Unit. Defendant argued that the evidence seized should be suppressed because: (1) the police violated his right to privacy when they placed the video camera at the storage facility and surreptitiously recorded his activities; and (2) "the search warrant application contained false information when it recited that FBI and Scottsdale Police observed drugs in two boxes following the alleged exchange with Mario." The second assertion contained a footnote that stated: "[Defendant] will seek to supplement the factual support for this contention following examination of additional discovery that he has requested from the state." The motion contained argument on the first issue raised, but none on the second. Defendant's motion maintained that the surveillance information could not be used to support probable cause, and that, when read without it, the warrant application failed to present probable cause for the search.

¶12 The state argued that Defendant did not satisfy the prerequisites for a *Franks*[10] hearing in that he did not make a "substantial preliminary showing" that the affiant had "knowingly and intentionally made a false statement, or made a false statement in reckless disregard for the truth" and that the false assertion was necessary to "the judicial officer's determination of probable cause and subsequent issuance of a warrant." Defendant countered, asserting that the specific information that he claimed was false was the statement that he was seen taking two boxes from the Unit to a van and later transferred them to a Range Rover and that these same boxes or their contents were involved in a later transfer to a confidential source. He claimed the statement was false because the police report stated that the actual transfer was not seen as the view was temporarily blocked, and the inference that it was the same drugs that were transferred to the source was "suspect."

¶13 Defendant did not attach a copy of the challenged police report to his reply, but instead reminded the court that he planned to "supplement the factual basis for this assertion after [an] examination of additional discovery." He asserted that discovery had been requested in a separate motion and that

[10] *Franks v. Delaware*, 438 U.S. 154 (1978).

the “available reports” did not support the avowal in the warrant application.

¶14 At a trial management conference on May 4, 2009, the parties discussed the motion, and defense counsel informed the court that he had made a discovery request for “DEA 6’s and 302’s” so that he could file a supplemental brief on the suppression issue if necessary. The prosecutor could not confirm that the requested discovery existed, but qualified that it possibly could, and vowed to get and disclose it if it existed. Defense counsel never filed a supplement to his motion to suppress.

¶15 On June 8, 2009, the trial court vacated the June 12, 2009 suppression hearing and denied the motion to suppress. Defendant never attempted to supplement his original motion to suppress nor asked the trial court to reconsider its decision.

II. THE MOTION TO CONTINUE

¶16 On August 7, 2009, more than a year after Defendant was indicted and four days before his then-scheduled trial date, Defendant’s retained counsel filed a motion to withdraw, stating that Defendant had discharged him. At a hearing on the eve of trial, Defendant informed the court that he fired his lawyer and no longer wanted his representation because they disagreed on several issues, including matters involving the motion to suppress. Defense counsel advised the court that he was ready

for trial except for one brief interview with an additional witness who had been on vacation.

¶17 The trial court carefully advised Defendant of the consequences of his decision and warned that, if the court appointed new counsel, he could not "fire" that person if he had another difference of opinion with new counsel. Defendant professed that he wished to represent himself, and the court advised him that that self-representation would not allow him to "repeat anything" or "go back and re[-]interview the witnesses [himself]." Defendant retracted his decision to represent himself, and the court granted the motion to withdraw, appointed the Public Defender's Office, and continued the trial.

¶18 Following an appearance by new defense counsel on August 24, and with new defense counsel's agreement, the trial court set a trial management conference for November 2 and a new trial date of November 9. On September 30, defense counsel filed a motion to withdraw, stating that there was "a disruption in communication between both parties" because he and Defendant were "in disagreement on how to proceed [in] this case" and because Defendant believed that defense counsel did not "believe in his case." The trial court denied the motion by minute entry, noting that Defendant's last attorney had withdrawn for essentially similar reasons, that Defendant was not entitled to

counsel who "believe[d] in his case," nor to counsel who agreed with Defendant "regarding the best course of action to take."

¶19 On October 28, 2009, defense counsel filed a motion to continue the trial for forty-five days or more, claiming that he was not ready for trial and needed more time to prepare. The state objected and, after hearing argument, the court denied the motion and affirmed the November 9 trial date. On November 9, defense counsel filed several motions *in limine* in addition to his notice of the assigned trial judge. The next day, defense counsel informed the assigning judge that he was ready for trial and the court assigned the case for trial on November 12.

¶20 Before the start of opening statements, defense counsel "re-urged" his motion to withdraw, stating that Defendant wanted him "to see if the Court is willing to allow me to withdraw...." Defendant addressed the trial court, stating that he and counsel had not discussed a defense, that counsel had only informed him "about the 13-3410" on November 3, and that counsel had "not done anything for [him]," such as filing motions Defendant wanted counsel to file.

¶21 The trial court advised Defendant that the motion to withdraw had already been denied by the previously assigned judge and that the reasons Defendant continued to argue were the same ones addressed by the trial judge who denied the motion. The trial court further informed Defendant that he was not

entitled to an attorney who agreed with him regarding the best course of action. After noting that the jury was picked, the pretrial motions resolved, and defense counsel clearly knew the case and was prepared to proceed, the trial court denied the motion again.

¶22 At the conclusion of trial, a jury convicted Defendant on all 10 counts.[11] Following an aggravation hearing, the jury also found beyond a reasonable doubt that the state had proven that Defendant had committed Counts 1 through 7 and 9 and 10 in consideration for the receipt, or in the expectation of the receipt, of anything of value. The jury also found that Defendant was a serious drug offender.

¶23 On January 5, 2010, Defendant filed a Motion to Vacate Judgment, which the trial court treated as a motion for new trial and denied. On January 8, 2010, the trial court sentenced Defendant to concurrent terms of life in prison on each of Counts 1 through 7, 9 and 10, and to a concurrent, presumptive term of one year in prison on Count 8.

¶24 Defendant timely appeals. We have jurisdiction pursuant to the Arizona Constitution, Article 6, § 9 and A.R.S. §§ 12-120.21(A)(1), 13-4031 and -4033.

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[11] With regard to Counts 2 (codeine) and 6 (methylphenidate), the jury found that the state had not proven that the amounts equaled or exceeded the statutory amounts.

DISCUSSION

¶25 On appeal, Defendant argues that the trial court abused its discretion in two respects: (1) failing to hold an evidentiary hearing on Defendant's motion to suppress; and (2) denying Defendant's request for continuance after Defendant fired counsel and new counsel was appointed. Defendant also argues that the evidence was insufficient to support the "serious drug offender" conviction.

I. FAILURE TO HOLD EVIDENTIARY HEARING ON MOTION TO SUPPRESS

¶26 Defendant argues that the trial court abused its discretion by ruling on the merits of his motion to suppress and failing to conduct an evidentiary hearing "having been apprised that material discovery remained outstanding."[12] We disagree.

¶27 We will not reverse a trial court's decision on a motion to suppress absent an abuse of discretion and defer to the trial court's factual determinations, but review conclusions of law de novo. *State v. Zamora*, 220 Ariz. 63, 67, ¶ 7, 202 P.3d 528, 532 (App. 2009) (citation omitted). A trial court's denial of a *Franks* hearing regarding the truth of statements made in an application for a search warrant will not be disturbed absent clear and manifest error. *See State v. Lopez*, 174 Ariz. 131, 140, 847 P.2d 1078, 1087; *United States v.*

[12] Defendant does not challenge the trial court's finding regarding his privacy interest argument.

Carmel, 548 F.3d 571, 577 (7th Cir. 2008) (stating that a clear-error standard applies to trial court's grant or denial of *Franks* hearing).

¶28 An affidavit supporting a search warrant is entitled to a presumption of validity. *Franks v. Delaware*, 438 U.S. 154, 171 (1978). To mandate an evidentiary hearing, a defendant's attack on an affidavit must be "more than conclusory." *Id.* The defendant must make "a substantial preliminary showing that a false statement knowingly and intentionally, or with reckless disregard for the truth, was included by the affiant in the warrant affidavit"; and that "the allegedly false statement [was] necessary to the finding of probable cause." *Id*. at 155-56. Furthermore, such allegations must be accompanied by a supporting statement of reasons and affidavits or reliable statements by witnesses. *Id*. at 171. And even if the defendant satisfies the prerequisites, no hearing is required if the warrant application contains sufficient information for finding probable cause without the allegedly false material. *Id*. at 171-72. Only "if the remaining content is insufficient" is a defendant entitled to a hearing. *Id*. at 172.

¶29 The trial court did not err in denying Defendant's motion to suppress without an evidentiary hearing. Defendant failed to make anything other than an unsubstantiated and conclusory attack on the validity of the affidavit for the

search warrant. Defendant never alleged, let alone made any showing, substantial or otherwise, that the "suspect" false assertion that he questioned in the affidavit was the result of any deliberate falsehood or of reckless disregard for the truth. Defendant failed to satisfy the threshold prerequisite of an allegation and therefore was not entitled to a determination on the issue of probable cause.

¶30 Defendant also faults the trial court for ruling on his motion while there was "outstanding discovery, which was material and paramount" to his ability to challenge the veracity of the statements in the warrant affidavit. However, in the five months between the ruling and trial, Defendant never challenged the ruling nor moved for reconsideration because of any discovery issues related to the motion to suppress, despite the ability to do so had the state *not* provided the requested reports. Even on appeal, Defendant has not shown that the requested "DEA 6's and 302's" he planned to use to supplement his motion to suppress existed, so it is difficult to understand how we could find that they were "material or paramount" to his motion to suppress. Defendant contends that it was "unjust" of the trial court to deny him this procedural right to challenge the veracity of the affidavit "*if* material discovery remained outstanding." Neither we nor the trial court may speculate as to the materiality or paramount nature of reports a defendant

has failed to show even exist, much less how their contents would have established the "deliberate" or "reckless" falsity needed to trigger a *Franks* hearing.

¶31 Defendant also argues that the dismissal of the original Count 1 (sale or transportation of marijuana) by the state is somehow related to the question of whether or not the court was required to hold an evidentiary hearing because the dismissal "effectively extinguished" his right to challenge the veracity of Dersa's observations. We do not see the relation. Additionally, Defendant agreed to dismissal of this count and he stated that he preferred that it be dismissed before trial rather than addressing dismissal via directed verdict. Defendant must show that the dismissal gave rise to fundamental error, or else he waived it on appeal -- he has not made the requisite showing. *State v. Henderson*, 210 Ariz. 561, 567, ¶¶ 19-20, 115 P.3d 601, 607 (2005).

¶32 Defendant has failed to demonstrate that he satisfied the threshold requirements that would have required the trial court to hold an evidentiary hearing on his motion to suppress evidence due to the falsity of statements in the warrant affidavit. Accordingly, the trial court did not abuse its discretion by not holding an evidentiary hearing and ruling on the merits of Defendant's motion.

II. DENIAL OF CONTINUANCE

¶33 On appeal, Defendant maintains that the trial court's denial of the motion to continue was an abuse of its discretion. Defendant further contends that he was prejudiced because the denial of the continuance did not allow his counsel a reasonable amount of time to communicate that he faced a life sentence pursuant to A.R.S. § 13-3410. We find that the trial court did not abuse its discretion by denying Defendant's motion to continue.

¶34 "A continuance of any trial date shall be granted only upon a showing that extraordinary circumstances exist and that delay is indispensible to the interests of justice." Ariz. R. Crim. P. 8.5(b). "[T]he granting of a continuance is not a matter of right, but is left to the sound discretion of the trial judge." *State v. Sullivan*, 130 Ariz. 213, 215, 635 P.2d 501, 503 (1981).

¶35 On November 10, counsel informed the trial court that he was "ready" to go to trial. Although it appears that disagreements remained between Defendant and counsel regarding trial strategy on November 16, this alone does not signify that counsel was not fully prepared to go to trial.

¶36 Defendant's argument that the denial of the continuance left counsel without sufficient time to communicate with him regarding the life sentence has no bearing on whether

counsel was prepared for trial. Further, in the same paragraph of his opening brief, Defendant acknowledges that he was aware of the state's § 13-3410 allegation "three months before trial." Defendant has failed to establish that the trial court abused its broad discretion in denying his motion to continue.

III. SERIOUS DRUG OFFENDER EVIDENCE

¶37 Defendant argues that there was insufficient evidence to support the jury's finding that Defendant was a "serious drug offender" pursuant to A.R.S. § 13-3410. He asserts three grounds for this argument: (1) all of the evidence seized against him came from one day as opposed to three criminal acts; (2) the testimony failed to establish that he organized, managed or directed an enterprise in support of illegal activity; and (3) the state offered no evidence to support the finding that $25,000 of his income was received in a calendar year. We find no merit in these arguments.

¶38 To set aside a jury verdict for insufficient evidence, it must clearly appear that upon no hypothesis whatsoever is there sufficient evidence to support the conclusion the jury reached. *State v. Arredondo*, 155 Ariz. 314, 316, 746 P.2d 484, 486 (1987). In making our determination we will not reweigh the challenged evidence, but will view all of the evidence at trial in the light most favorable to sustaining the verdict, and resolve all reasonable inferences against defendant. *State v.*

Tison, 129 Ariz. 546, 552, 633 P.2d 355, 361 (1981) (citation omitted). Further, the substantial evidence required for a conviction may be either circumstantial or direct, and the probative value of the evidence is not otherwise reduced simply because it is circumstantial. *State v. Anaya*, 165 Ariz. 535, 543, 799 P.2d 876, 884 (App. 1990).

¶39 A.R.S. § 13-3410 states that a person who is at least 18 years old and who has been convicted of a "serious drug offense" is subject to the sentencing provisions of the statute upon proof that the person committed the offense because of "a pattern of engaging in conduct prohibited by this chapter, which constituted a significant source of the person's income[,]" § 13-3410(A), or because of "the person's association with and participation in the conduct of an enterprise[13] . . . engaged in dealing in substances controlled by this chapter, and who organized, managed, directed, supervised or financed the enterprise with the intent to promote or further its criminal objectives." § 13-3410(B). A "pattern" is formed when a person "engage[s] in conduct prohibited by this chapter if the person's conduct involves at least three criminal acts that have the same or similar purposes, results, participants, victims or methods

[13] A.R.S. § 13-2301(D)(2) defines an "enterprise" as "any corporation, partnership, association, labor union, or other legal entity or any group of persons associated in fact although not a legal entity."

of commission, or otherwise are interrelated by distinguishing characteristics and are not isolated events." § 13-3410(C). A "significant source of income" is income exceeding $25,000 during a calendar year without regard to exceptions, reductions or setoffs. § 13-3410(D)(2).

¶40 The evidence is certainly sufficient circumstantial evidence to support the jury's verdict that Defendant is a serious drug offender. He is over 18 years old and has been convicted of several serious drug offenses. He was seen going to and entering the drug-filled Unit eight times in five weeks and when leaving the Unit, he was seen removing boxes (boxes that were just like those found in his garage). Copious amounts of drugs (34,000 dosage units of controlled substances), large amounts of cash (over $270,000), and many luxury items –- including a Bentley, Mercedes, Range Rover, and Dodge Magnum –- were found at a storage unit, a house, and a condo all associated with him and which he was seen driving to or leaving from on more than three occasions.

¶41 Defendant admitted to Dersa that the drugs were his; that he was a "mule" and was compensated for his role; that he "move[d] prescription drugs to different parts of the country"; that people came from all over the country for the drugs; that some of the seized cash was owed to others for drugs he obtained; that he had four or five people working for him by

picking up shipments; and that he placed in bank accounts "cash deposits" that were from drug proceeds.

¶42 Defendant committed and was convicted of ten different crimes, which were observed over nearly three months, even though the evidence of those crimes was seized on one day. The fact that the police were efficient in seizing evidence of Defendant's criminal acts does not temper his guilt. Defendant's Unit and garage-floor safe concealed $270,000 cash and there was no evidence that he actually worked at Tipps Barbecue or that he earned money from any other sources -- the jury could reasonably conclude that at least $25,000 of the $270,000 secreted away represented Defendant's income for a calendar year. In addition to controlling large amounts of money and drugs, Defendant told Dersa he employed four or five people in getting the drugs to him and that he was responsible for moving drugs around the country -- evidence sufficient for a jury to conclude that Defendant operated an enterprise.

¶43 Sufficient evidence was presented at trial to support the jury's finding that Defendant is a serious drug offender under A.R.S. § 13-3410(A) or -3410(B). We therefore affirm.

CONCLUSION

¶44 For the foregoing reasons, we affirm Defendant's sentences and convictions in this case.

/s/
_____
PETER B. SWANN, Judge

CONCURRING:

/s/
_____
MARGARET H. DOWNIE, Presiding Judge

/s/
_____
DONN KESSLER, Judge