

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

FILED BY CLERK

OCT 31 2013

COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

THE STATE OF ARIZONA,)	2 CA-CR 2013-0028
)	DEPARTMENT A
Appellee,)	
)	<u>MEMORANDUM DECISION</u>
v.)	Not for Publication
)	Rule 111, Rules of
JOHN DAVID KARTEN,)	the Supreme Court
)	
Appellant.)	
_____)	

APPEAL FROM THE SUPERIOR COURT OF COCHISE COUNTY

Cause No. CR201200163

Honorable Wallace R. Hoggatt, Judge

AFFIRMED

Thorn Law Office
By David W. Thorn

Bisbee
Attorney for Appellant

H O W A R D, Chief Judge.

¶1 Appellant John Karten was convicted after a jury trial of transportation of marijuana for sale, and the trial court sentenced him to a presumptive, five-year prison term. Counsel has filed a brief in compliance with *Anders v. California*, 386 U.S. 738 (1967), and *State v. Clark*, 196 Ariz. 530, 2 P.3d 89 (App. 1999), asserting he has reviewed the record but found no arguable issue to raise on appeal. Consistent with *Clark*, 196 Ariz. 530, ¶ 32, 2 P.3d at 97, he has provided “a detailed factual and

procedural history of the case with citations to the record” and asks this court to search the record for error. Although he was given an opportunity to do so, Karten did not file a supplemental brief.

¶2 Viewing the evidence in the light most favorable to sustaining the verdict, *see State v. Tamplin*, 195 Ariz. 246, ¶ 2, 986 P.2d 914, 914 (App. 1999), we find sufficient evidence to support the jury’s findings. *See* A.R.S. § 13-3405(A)(4), (B)(11). During a traffic stop, law enforcement officers found over 500 pounds of marijuana hidden in the cargo of a flatbed truck driven by Karten. The truck had decals and markings indicating it was owned and operated by a lumber company. Although Karten told an officer he was employed there, the company neither owned the truck nor employed Karten. Karten’s sentence was imposed properly and did not exceed the legal statutory limit. *See* A.R.S. §§ 13-702(D), 13-3405(B)(11).

¶3 Pursuant to our obligation under *Anders*, we have searched the record for fundamental, reversible error and found none. *See State v. Fuller*, 143 Ariz. 571, 575, 694 P.2d 1185, 1189 (1985) (*Anders* requires court to search record for fundamental error). Karten’s conviction and sentence are affirmed.

/s/ Joseph W. Howard
JOSEPH W. HOWARD, Chief Judge

CONCURRING:

/s/ Garye L. Vásquez
GARYE L. VÁSQUEZ, Presiding Judge

/s/ J. William Brammer, Jr.
J. WILLIAM BRAMMER, JR., Judge*

*A retired judge of the Arizona Court of Appeals authorized and assigned to sit as a judge on the Court of Appeals, Division Two, pursuant to Arizona Supreme Court Administrative Order No. 2012-101 filed December 12, 2012.