

IN THE  
**ARIZONA COURT OF APPEALS**  
DIVISION TWO

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THE STATE OF ARIZONA,  
*Appellee,*

*v.*

KHAMBREL MAURICE WRIGHT,  
*Appellant.*

No. 2 CA-CR 2015-0311  
Filed April 5, 2016

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THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND  
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.

NOT FOR PUBLICATION

*See Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Crim. P. 31.24.*

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Appeal from the Superior Court in Pima County  
No. CR20144393003  
The Honorable Teresa Godoy, Judge Pro Tempore

**AFFIRMED**

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COUNSEL

Barton & Storts, P.C., Tucson  
By Brick P. Storts, III  
*Counsel for Appellant*

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MEMORANDUM DECISION

Presiding Judge Howard authored the decision of the Court, in which Judge Espinosa and Judge Staring concurred.

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H O W A R D, Presiding Judge:

¶1 After a jury trial, Khambrel Wright was convicted of possession of a narcotic drug and possession of drug paraphernalia. The trial court sentenced him to concurrent prison terms, the longest of which was six years.

¶2 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. Wright has filed a supplemental brief arguing the trial court erred in denying his motion to suppress based on purported defects in the search warrant affidavit.

¶3 Viewing the evidence in the light most favorable to sustaining the jury’s verdicts, *see State v. Tamplin*, 195 Ariz. 246, ¶ 2, 986 P.2d 914, 914 (App. 1999), sufficient evidence supports them here. During a search of Wright in October 2014, law enforcement officers found in his pocket a baggie containing approximately a quarter gram of cocaine base that he acknowledged belonged to him. A.R.S. §§ 13-3401(5), (20)(z); 13-3408(A)(1); 13-3415(A). And sufficient evidence supported the trial court’s conclusion that Wright had two historical prior felony convictions. Wright’s sentences are within the statutory range and properly imposed. A.R.S. §§ 13-703(C), (J); 13-3408(B)(1); 13-3415(A).

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¶4 Wright’s contact with law enforcement officers occurred during the search of a house conducted pursuant to a nighttime search warrant. Wright filed a motion to suppress asserting the search had been improper because the warrant affidavit did not support a finding of probable cause. He additionally argued the warrant affidavit did not support a finding of good cause as required for a nighttime warrant. *See* A.R.S. § 13-3917 (generally, search warrant “may be served only in the daytime” but magistrate may allow nighttime service “[u]pon a showing of good cause”).

¶5 After a hearing, the trial court denied the suppression motion. It determined that, although the affidavit did not provide probable cause to support the warrant, suppression was not warranted because the law enforcement officers had relied on the warrant in good faith. It also determined the affidavit provided sufficient good cause to allow the nighttime warrant.

¶6 In his supplemental brief, Wright again argues the warrant was not supported by probable cause and the warrant affidavit was insufficient to show the “good cause” required for a nighttime search. As to the first argument, Wright fails to address the trial court’s conclusion that suppression of evidence was not warranted because the law enforcement officers had acted in good faith. *See* A.R.S. § 13-3925(B), (C). And, even if we agreed with Wright that the trial court erred by concluding a nighttime warrant was justified, he does not establish any deficiency is a constitutional violation instead of a mere violation of the statutory good cause requirement. “Any evidence that is seized pursuant to a search warrant shall not be suppressed as a result of a violation of this chapter except as required by the United States Constitution and the constitution of this state.” § 13-3925(A); *State v. Foncette*, 238 Ariz. 42, ¶ 25, 356 P.3d 328, 333 (App. 2015) (“Absent a constitutional violation, Arizona law does not contemplate suppression of evidence to remedy a violation of the nighttime search statute.”). Thus, Wright has not established that he is entitled to relief.<sup>1</sup>

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<sup>1</sup>Wright cites *State v. Wilson*, 25 Ariz. App. 49, 540 P.2d 1268 (1975), for the proposition that suppression is the appropriate

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¶7 Pursuant to our obligation under *Anders*, we have searched the record for fundamental 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). And we have rejected the arguments raised in Wright's supplemental brief. We therefore affirm his convictions and sentences.

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remedy absent an adequate showing of good cause. But that case precedes the addition of subsection (A) to § 13-3925 and thus does not control here. *See* 2000 Ariz. Sess Laws, ch. 49, § 4.