IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Appellee,

v.

JAMES HARVEY STURGILL JR.,
Appellant.

No. 2 CA-CR 2015-0365
Filed August 24, 2016

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NOT FOR PUBLICATION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.

Appeal from the Superior Court in Pima County
No. CR20133794001
The Honorable Casey F. McGinley, Judge Pro Tempore

AFFIRMED AS CORRECTED

COUNSEL

Steven R. Sonenberg, Pima County Public Defender
By Abigail Jensen, Assistant Public Defender, Tucson
Counsel for Appellant

MEMORANDUM DECISION

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

S T A R I N G, Judge:

¶1 Appellant James Sturgill was charged with transportation of marijuana for sale.[1] Following a jury trial in 2014, Sturgill was convicted in absentia of transportation of "4 pounds or more" of marijuana for sale. At a sentencing hearing held one year after his conviction, the trial court sentenced Sturgill to a minimum, four-year prison term with sixty-six days of presentence incarceration credit.[2]

¶2 Counsel has filed a brief in compliance with *Anders v. California*, 386 U.S. 738 (1967), avowing she has reviewed the entire record and found no "meritorious issue" to raise on appeal, and asking that we search the record for "error." In compliance with *State v. Clark*, 196 Ariz. 530, ¶ 32, 2 P.3d 89, 97 (App. 1999), counsel has also provided "a detailed factual and procedural history of the

---

[1]The state dismissed an additional charge for possession of marijuana for sale.

[2] Section 13-4033(C), A.R.S., precludes a nonpleading defendant from filing a direct appeal when "the defendant's absence prevents sentencing from occurring within ninety days after conviction and the defendant fails to prove by clear and convincing evidence at the time of sentencing that the absence was involuntary." Because the record before us does not appear to contain evidence that Sturgill was informed that his voluntary delay of sentencing for more than ninety days would result in a waiver of his appeal rights, *see State v. Bolding*, 227 Ariz. 82, ¶ 20, 253 P.3d 279, 285 (App. 2011), we find no waiver. Trial courts should routinely warn defendants of this risk.

case with citations to the record, [so] this court can satisfy itself that counsel has in fact thoroughly reviewed the record." Sturgill has not filed a supplemental brief.

¶3 Viewing the evidence in the light most favorable to upholding the jury's verdict, *see State v. Tamplin*, 195 Ariz. 246, ¶ 2, 986 P.2d 914, 914 (App. 1999), the evidence established that in September 2013, Sturgill was driving a vehicle that contained 532 pounds of marijuana, an amount a deputy sheriff testified was consistent with the sale of that substance. We conclude substantial evidence supported Sturgill's conviction, *see* A.R.S. § 13-3405(A)(4), (B)(11), and the sentence was lawful and was imposed properly, *see* A.R.S. § 13-702.

¶4 However, in our review of the record pursuant to *Anders,* we noticed that the sentencing order and transcript refer to count two, rather than count one. Because it is clear from record that on the first day of trial count one was dismissed and count two was renumbered as count one, the sentencing order shall be corrected to reflect that Sturgill was convicted of count one. *See State v. Vandever*, 211 Ariz. 206, ¶ 16, 119 P.3d 473, 477 (App. 2005) (appellate court must correct inadvertent error in sentencing minute entry); *see also State v. Lopez*, 230 Ariz. 15, n.2, 279 P.3d 640, 643 n.2 (App. 2012) ("When we can ascertain the trial court's intent from the record, we need not remand for clarification.").

¶5 Pursuant to our obligation under *Anders,* we have searched the record for fundamental, reversible error and have found none. *See State v. Fuller*, 143 Ariz. 571, 575, 694 P.2d 1185, 1189 (1985). Accordingly, we affirm Sturgill's conviction and sentence but correct the sentencing order consistent with this decision.