

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Appellee,

v.

JOHN JOSEPH BERGEN,
Appellant.

No. 2 CA-CR 2017-0049
Filed July 25, 2017

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NOT FOR PUBLICATION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. CR20152813001
The Honorable Howard Fell, Judge Pro Tempore

AFFIRMED

COUNSEL

West, Elsberry, Longenbaugh & Zickerman, PLLC, Tucson
By Anne Elsberry
Counsel for Appellant

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MEMORANDUM DECISION

Presiding Judge Vásquez authored the decision of the Court, in which Chief Judge Eckerstrom and Judge Kelly¹ concurred.

V Á S Q U E Z, Presiding Judge:

¶1 After a jury trial, John Bergen was convicted of fraudulent scheme and artifice. The trial court sentenced him to a four-year prison term.

¶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 she had reviewed the record but found no arguably meritorious issue to raise on appeal. Consistent with *Clark*, 196 Ariz. 530, ¶ 32, 2 P.3d at 97, she provided “a detailed factual and procedural history of the case with citations to the record” and asked this court to search the record for error.

¶3 Viewing the evidence in the light most favorable to sustaining the jury’s verdict, *see State v. Tamplin*, 195 Ariz. 246, ¶ 2, 986 P.2d 914, 914 (App. 1999), sufficient evidence supports it here. In September 2014, Bergen obtained goods and services from three victims using six checks for which his account lacked sufficient funds to pay and ignored subsequent demands for payment. A.R.S. § 13-2310(A). And sufficient evidence supports the trial court’s finding that Bergen had one previous felony conviction. His sentence is within the statutory range and was properly imposed. §§ A.R.S. 13-703(A), (H), 13-2310(A).

¹The Hon. Virginia C. Kelly, a retired judge of this court, is called back to active duty to serve on this case pursuant to orders of this court and our supreme court.

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¶4 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) (stating *Anders* requires court to search record for fundamental error). Accordingly, we affirm Bergen's conviction and sentence.