

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Appellee,

v.

BRIAN JEFFERY MCCALL,
Appellant.

No. 2 CA-CR 2018-0014
Filed October 5, 2018

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NOT FOR PUBLICATION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. 31.19(e).

Appeal from the Superior Court in Pima County
No. CR20150167001
The Honorable Christopher Browning, Judge
The Honorable Richard S. Fields, Judge

AFFIRMED

COUNSEL

Joel Feinman, Pima County Public Defender
By Erin K. Sutherland, Assistant Public Defender, Tucson
Counsel for Appellant

STATE v. McCALL
Decision of the Court

MEMORANDUM DECISION

Presiding Judge Staring authored the decision of the Court, in which Chief Judge Eckerstrom and Judge Brearcliffe concurred.

STARING, Presiding Judge:

¶1 After a trial in absentia, appellant Brian McCall was convicted of sale of heroin and possession of heroin. After he was returned to custody,¹ the trial court sentenced him to concurrent prison terms, the longer of which was seven years. Counsel has filed a brief in compliance with *Anders v. California*, 386 U.S. 738 (1967), and *State v. Clark*, 196 Ariz. 530 (App. 1999), stating she has reviewed the record and has found no “arguably meritorious issues” to raise on appeal. Counsel has asked us to search the record for error. McCall has not filed a supplemental brief.

¶2 Viewed in the light most favorable to sustaining the verdicts, see *State v. Delgado*, 232 Ariz. 182, ¶ 2 (App. 2013), the evidence was sufficient to support the jury’s findings of guilt, see A.R.S. § 13-3408(A)(1), (7). The evidence presented at trial showed McCall sold heroin to an undercover officer for \$40. During a later search pursuant to a warrant, officers found additional heroin and the officer’s money, which had been photocopied for identification, in McCall’s apartment. We further conclude the sentences imposed are within the statutory limits. See A.R.S. §§ 13-703(B), (H), (I), 13-3408(B)(1), (7).

¶3 Pursuant to our obligation under *Anders*, we have searched the record for fundamental, reversible error and have found none. Therefore, McCall’s convictions and sentences are affirmed.

¹McCall was returned to custody in May 2017. At sentencing, defense counsel and the state agreed that he had waived his right to appeal, and the trial court therefore only advised him of his right to seek relief pursuant to Rule 32, Ariz. R. Crim. P. In a Rule 32 proceeding, however, McCall argued, and the state agreed, that he had not been advised that delaying sentencing by more than ninety days would waive his right to appeal pursuant to A.R.S. § 13-4033. See *State v. Bolding*, 227 Ariz. 82, ¶ 20 (App. 2011). The trial court granted McCall a delayed appeal.