

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Appellee,

v.

CLAYTON PAUL FARNSWORTH,
Appellant.

No. 2 CA-CR 2019-0203
Filed March 30, 2020

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NOT FOR PUBLICATION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. CR20150660001
The Honorable Wayne E. Yehling, Judge

AFFIRMED

COUNSEL

Robert A. Kerry, Tucson
Counsel for Appellant

STATE v. FARNSWORTH
Decision of the Court

MEMORANDUM DECISION

Judge Eckerstrom authored the decision of the Court, in which Presiding Judge Eppich and Judge Espinosa concurred.

ECKERSTROM, Judge:

¶1 Clayton Farnsworth appeals from his resentencing on one count of attempted sexual conduct with a minor following a remand by this court. 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), asserting he has reviewed the record but found no arguable issue to raise on appeal. We affirm.

¶2 After a jury trial, Farnsworth was convicted of luring a minor for sexual exploitation, attempted sexual conduct with a minor, and twenty-two counts of sexual exploitation of a minor. *State v. Farnsworth*, 241 Ariz. 486, ¶ 1 (App. 2017) (vacated in part by *State v. Farnsworth*, 243 Ariz. 150 (2017)). He was sentenced to consecutive prison terms on the exploitation offenses totaling 384 years, a 3.5-year prison term for luring a minor, and a ten-year prison term for attempted sexual conduct with a minor, to be served concurrently with each other but consecutively to his other sentences. *Id.*

¶3 On appeal, Farnsworth argued, among other things, that his conviction for attempted sexual conduct with a minor was not a dangerous crime against children (DCAC) under A.R.S. § 13-705 because the target of his attempt was a police officer posing as a minor. *Id.* ¶¶ 2, 13. We affirmed his convictions and sentences on appeal. *Id.* ¶ 25. The supreme court, however, vacated the portion of our decision addressing his DCAC argument and directed this court to reconsider that issue in light of *Wright v. Gates*, 243 Ariz. 118 (2017). *Farnsworth*, 243 Ariz. at 150. On reconsideration, we vacated Farnsworth's sentence for attempted sexual conduct with a minor, concluding an "enhanced DCAC sentence is impermissible" because "the victim in that count was not a minor under the age of fifteen, but was, rather, a law enforcement officer impersonating one." *State v. Farnsworth*, No. 2 CA-CR 2015-0382, ¶ 4 (Dec. 20, 2017) (Supp. Mem. Decision on Remand).

STATE v. FARNSWORTH
Decision of the Court

¶4 On remand, the trial court imposed a presumptive, 3.5-year prison term for Farnsworth's conviction of attempted sexual conduct with a minor. Consistent with *Clark*, 196 Ariz. 530, ¶ 32, counsel 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. Farnsworth has not filed a supplemental brief.

¶5 The sentence is within the statutory range. See §§ 13-702(D), 13-1001(C)(2), 13-1405(B). Pursuant to our obligation under *Anders*, we have searched the resentencing record for fundamental error and found none.

¶6 Accordingly, we affirm Farnsworth's sentence imposed on the count of attempted sexual conduct with a minor.