

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Appellee,

v.

DRAKE PATRICK MOREY,
Appellant.

No. 2 CA-CR 2020-0007
Filed August 24, 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NOT FOR PUBLICATION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. CR20192357001
The Honorable Michael Butler, Judge

AFFIRMED

COUNSEL

Law Offices of Thomas Jacobs, Tucson
By Thomas Jacobs
Counsel for Appellant

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MEMORANDUM DECISION

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

ESPINOSA, Judge:

¶1 After a jury trial, Drake Morey was convicted of two counts of forgery. The trial court sentenced him to mitigated, concurrent prison terms of one year for each count.

¶2 On appeal, counsel has filed a brief in compliance with *Anders v. California*, 386 U.S. 738 (1967), stating he has reviewed the record but “has not found any issue that is not frivolous.” Consistent with *State v. Clark*, 196 Ariz. 530, ¶ 30 (App. 1999), counsel has provided “a detailed factual and procedural history of the case, with citations to the record,” and has asked us to search the record for reversible error. Morey has not filed a supplemental brief.

¶3 Viewed in the light most favorable to affirming the jury’s verdicts, *see State v. Tamplin*, 195 Ariz. 246, ¶ 2 (App. 1999), the evidence is sufficient here, *see* A.R.S. § 13-2002(A). In February 2019, D.B. wrote check numbers 5537 and 5538 from an account he shared with his wife to two different credit card companies for \$1,075.29 and \$99, respectively, and he left the checks in his mailbox; however, the companies never received the checks. The following month, Morey cashed those checks, which had been altered to be payable to him in the amount of \$3,300 each, with “Star Wars Poster” written in the memo line. Morey’s family knew D.B.’s family, and Morey admitted that the checks had not been given to him by D.B. or his wife.

¶4 In his *Anders* brief, counsel has identified one issue that he “does not believe to be legally meritorious” but nonetheless suggests may “merit consideration for fundamental error.” That issue is whether the trial court erred in granting the state’s motion to admit other-act evidence under Rule 404(b), Ariz. R. Evid. Morey opposed the state’s motion at a hearing on September 24, 2019. We review the admission of evidence for an abuse of discretion. *State v. Scott*, 243 Ariz. 183, ¶ 14 (App. 2017). The state sought

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to—and did—admit evidence of another victim’s check that went missing after being placed in his mailbox; was altered to be payable to Morey in the amount of \$1,800, with “Star Wars Warehouse” written in the memo line; and was ultimately cashed by Morey in March 2019. As the trial court correctly found, this evidence was admissible to show intent, knowledge, plan, and absence of mistake. *See State v. Lehr*, 227 Ariz. 140, ¶ 21 (2011) (similar crimes admissible under Rule 404). No abuse of discretion occurred, and we have determined this issue does not require further briefing.

¶5 The sentences imposed are within the statutory range. *See* A.R.S. §§ 13-702(D), 13-2002(C).

¶6 Pursuant to our obligation under *Anders*, we have searched the record for reversible error and have found none. Accordingly, we affirm Morey’s convictions and sentences.