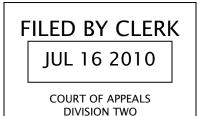
NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES. *See* Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24



IN THE COURT OF APPEALS STATE OF ARIZONA DIVISION TWO

THE STATE OF ARIZONA,) 2 CA-CR 2009-0139) DEPARTMENT B
v. MICHAEL HUDG FRANCIS,) MEMORANDUM DECISION) Not for Publication) Rule 111, Rules of) the Supreme Court
Appellant.)
APPEAL FROM THE SUPERIOR Cause No. CR Honorable Howard AFFIRM	R20074202 Hantman, Judge
Emily Danies	Tucson Attorney for Appellant

ECKERSTROM, Judge.

Appellant Michael Francis was convicted after a jury trial of transportation of over two pounds of marijuana for sale. The trial court sentenced him to a mitigated prison term of four years. 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), avowing she has found "[n]o arguable question of law" and requesting that this court search the entire record for fundamental error.

- Francis has filed a supplemental brief in which he has raised various issues that relate to the broader claim of ineffective assistance of trial counsel. But we do not address claims of ineffective assistance of counsel on direct appeal. *See State v. Spreitz*, 202 Ariz. 1, ¶ 9, 39 P.3d 525, 527 (2002). Such claims must be presented to the trial court in a petition for post-conviction relief pursuant to Rule 32, Ariz. R. Crim. P. *Spreitz*, 202 Ariz. 1, ¶ 9, 39 P.3d at 527.
- Francis also contends the trial court violated his due process rights "as well as law under Arizona Rules of Criminal Procedure, 31.9(c)[,] Rule 14.3(e)[, and] Rule 31.9[,] Federal Rules of Appellate Procedure." He complains that this court granted the court reporter multiple extensions of the time for filing the transcripts in this case, which violated rules of procedure and his rights under the Fifth, Sixth, Eighth, and Fourteenth Amendments, including his rights to due process and "fundamental fairness." Rule 31.9(c), Ariz. R. Crim. P., does limit the number of extensions that may be granted to the clerk of the superior court for transmitting the record on appeal pursuant to Rule 31.9(a), but it does not apply to the filing of transcripts. Rule 31.8 applies to the preparation and filing of transcripts, and Rule 31.8(d)(1), states, "The authorized transcriber shall prepare the certified transcript promptly upon receipt of a notice of appeal"
- Upon the filing of an affidavit by the court reporter, in June 2009 this court granted one extension of time for filing the transcripts from the three-day jury trial. After the reporter had filed the transcripts of the trial and sentencing proceedings, this court ordered her to prepare transcripts from the two days of hearings on Francis's motion to suppress. The superior court had not served the reporter with notice requiring preparation

of these transcripts. In October, this court extended the time for filing the suppression

hearing transcripts. On November 4, 2009, this court entered its order acknowledging all

transcripts had been filed and the record was complete.

This court "may issue such orders in aid of the proceedings as it deems

necessary," Ariz. R. Crim. P. 31.17, and has done so here without unreasonably delaying

the processing of Francis's appeal. See also Ariz. R. Crim. P. 31.20 (appellate court

"may suspend the requirements of any section of Rule 31, and may substitute any other

appropriate order of proceedings"). And Francis has cited no authority to support his

assertion that his constitutional rights or his rights under the applicable procedural rules

have been violated.

We have reviewed the entire record for fundamental, reversible error and

have found none. The record supports the jury's verdict, and the mitigated prison term is

within statutory parameters and was imposed in a lawful manner. Therefore, we affirm

the conviction and the sentence.

/s/ Peter J. Eckerstrom

PETER J. ECKERSTROM, Judge

CONCURRING:

/s/ Garye L. Vásquez

GARYE L. VÁSQUEZ, Presiding Judge

/s/ Virginia C. Kelly

VIRGINIA C. KELLY, Judge

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