

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Appellee,

v.

PAUL FRANCIS RIVERA,
Appellant.

No. 2 CA-CR 2013-0533
Filed October 24, 2014

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NOT FOR PUBLICATION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); Ariz. R. Crim. P. 31.24.

Appeal from the Superior Court in Pima County

No. CR20124376001

The Honorable Javier Chon-Lopez, Judge

AFFIRMED AS CORRECTED

COUNSEL

Lori J. Lefferts, Pima County Public Defender
By Abigail Jensen, Assistant Public Defender, Tucson
Counsel for Appellant

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MEMORANDUM DECISION

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

ECKERSTROM, Chief Judge:

¶1 Appellant Paul Rivera was convicted after a jury trial of misconduct involving weapons based on his having possessed a deadly weapon as a prohibited possessor and was sentenced to a mitigated prison term of 2.25 years. Appointed counsel has filed a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967), *State v. Leon*, 104 Ariz. 297, 451 P.2d 878 (1969), and *State v. Clark*, 196 Ariz. 530, 2 P.3d 89 (App. 1999), avowing she has found no “arguably meritorious issue to raise on appeal.” She asks this court to search the record for error.

¶2 We have reviewed the record for error as requested. Viewed 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 was presented at trial establishing Rivera, who was prohibited from possessing a firearm because of prior felony convictions, had possessed a firearm—a Remington 700 bolt-action, twenty-two-caliber rifle that he admitted was his—in violation of A.R.S. § 13-3102(A)(4).¹ We have found no fundamental, reversible error in connection with the conviction. Additionally, the 2.25-year prison term was within the statutory parameter and was the mitigated term for a defendant such as Rivera, who was sentenced on this class four felony as a category two repetitive offender. See

¹We cite the current versions of the statutes referred to in this decision, as they have not changed in relevant part since Rivera’s offense on November 11, 2012.

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A.R.S. § 13-703(I).² The sentence was lawful and was imposed in a lawful manner.

¶3 We affirm the conviction and the sentence imposed, as corrected.

² Although there are some discrepancies in the record regarding the repetitive nature of the offense, the trial court's intent is clear nonetheless. *See State v. Lopez*, 230 Ariz. 15, n.2, 279 P.3d 640, 643 n.2 (App. 2012) ("When we can ascertain the trial court's intent from the record, we need not remand for clarification."). The state alleged Rivera had historical prior felony convictions for purposes of enhancement under § 13-703; the parties subsequently agreed, based on the undisputed evidence of his prior convictions presented at trial, that Rivera would be sentenced as a category two repetitive offender; and the court made clear at sentencing that it would sentence Rivera within the range for a class four felony for a category two offender, expressly ordering that the presentence report be corrected accordingly. While the sentencing minute entry characterizes the offense as "nonrepetitive" and the prison term as "slightly" mitigated, we correct the minute entry by striking these words. *See State v. Provenzano*, 221 Ariz. 364, ¶¶ 25-26, 212 P.3d 56, 62 (App. 2009) (discrepancy between oral pronouncement of sentence and minute entry may be resolved by reference to record showing dispositive evidence of trial court's intent).