

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Appellee,

v.

JOSHUA SETH BORTNICK,
Appellant.

No. 2 CA-CR 2015-0206
Filed June 15, 2016

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NOT FOR PUBLICATION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. 31.24.

Appeal from the Superior Court in Pima County
No. CR20133330001
The Honorable Christopher Browning, Judge

AFFIRMED

COUNSEL

Law Offices of Cornelia Wallis Honchar, P.C., Tucson
By Cornelia Wallis Honchar
Counsel for Appellant

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MEMORANDUM DECISION

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

V Á S Q U E Z, Presiding Judge:

¶1 Appellant Joshua Bortnick was charged with possession of equipment or chemicals for the purpose of manufacturing a dangerous drug, attempt to manufacture a dangerous drug, and possession of drug paraphernalia. Following a jury trial in absentia, he was convicted of the first and third counts and acquitted of the second. After finding that Bortnick had a prior felony conviction as to count one, the trial court sentenced him to a slightly mitigated three-year prison term with 330 days of presentence incarceration credit, to be followed by three years of intensive probation for count three.

¶2 Counsel has filed a brief in compliance with *Anders v. California*, 386 U.S. 738 (1967), avowing she has reviewed the entire record and found no “arguable question of law” to raise on appeal, and asking that we search the record for fundamental error. In compliance with *State v. Clark*, 196 Ariz. 530, ¶ 32, 2 P.3d 89, 97 (App. 1999), counsel has also provided “a detailed factual and procedural history of the case with citations to the record, [so] this court can satisfy itself that counsel has in fact thoroughly reviewed the record.” Bortnick has not filed a supplemental brief.

¶3 Viewing the evidence in the light most favorable to upholding the jury’s verdicts, *State v. Tamplin*, 195 Ariz. 246, ¶ 2, 986 P.2d 914, 914 (App. 1999), the evidence established that in May 2013, an individual occupying a hotel room next to the one where Bortnick was staying reported “a real toxic odor” emanating from her bathroom. Upon searching Bortnick’s hotel room, officers discovered “jars with liquids in them”; chemistry equipment, flasks,

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a beaker, a gas can, and a scale; “splatter on the bathroom walls”; printouts of articles from websites frequented by “illicit drug users,” including references to the manufacture of the dangerous drug dimethyltryptamine (DMT); rubber tubing and a funnel containing other chemicals “inten[ded] to [be] convert[ed]” to DMT; and a pipe with residue of DMT, all of which was “consistent with . . . clandestine drug labs.” We conclude substantial evidence supported Bortnick’s convictions, *see* A.R.S. §§ 13-3407(A)(3), (B)(3), 13-3415; 2013 Ariz. Sess. Laws, ch. 28, § 1, and the sentences were lawful and were imposed properly, *see* A.R.S. §§ 13-702(A), (D), 13-902(A)(4).

¶4 Pursuant to our obligation under *Anders*, we have searched the record for fundamental, reversible error and have found none. *See State v. Fuller*, 143 Ariz. 571, 575, 694 P.2d 1185, 1189 (1985). Accordingly, we affirm Bortnick’s convictions and sentences.