

COURT OF APPEALS, DIVISION ONE

BRIEFS

SECTION 2

1 CA-CR 6699

STATE OF ARIZONA

v.

EDWARD WAYNE THOMAS

YUMA COUNTY
SUPERIOR COURT
NO. CR-11403

TRANSMITTAL DATE

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NATURE OF THE CASE

Edward Wayne Thomas plead guilty to the crimes of Count I-Theft, a class three felony, in violation of A.R.S. §13-1802, and Count II-Possession of a Narcotic Drug, to-wit: hashish, a class four felony, in violation of A.R.S. §13-3406 (A)(1). He received a sentence of five (5) years on the theft charge and a sentence of four (4) years on the possession of a narcotic drug charge; said sentences to run concurrently.

This brief is filed in accordance with Anders v. California, 386 U.S. 738, 87 S.Ct. 1936, 18 L.Ed.2d 493 (1967), and State v. Leon, 104 Ariz. 297, 451 P.2d 878 (1968).

STATEMENT OF FACTS

On September 16, 1982, an indictment was returned by the Yuma County Grand Jury charging the Appellant, Edward Wayne Thomas, with the following crimes: Count I-Sale of Marijuana, a class two felony, in violation of A.R.S. §13-3405 (A)(3); COUNT II-Possession of Marijuana, a class six felony, in violation of A.R.S. §13-3405 (A)(1); Count III-Possession of a Narcotic Drug, to-wit: hashish, a class four felony, in violation of A.R.S. §13-3406 (A)(1); COUNT IV-Possession of a Narcotic Drug, to-wit: cocaine, a class four felony, in violation of A.R.S. §13-3406 (A)(1); Count V-Possession of Drug Paraphernalia, a class two misdemeanor, in violation of A.R.S. §13-3411; Count VI-Possession of an Imitation Controlled Substance, a class six felony, in violation of A.R.S. §13-3453; Count VII-Distribution of an Imitation Controlled Substance, a class six felony, in violation of A.R.S. §13-3454; Count VIII-Theft, a class three felony, in violation of A.R.S. §13-1802; COUNT IX-Sale of a Narcotic Drug, a class two felony, in violation of A.R.S. §13-3406 (A)(3); and Count X-Offering to Sell a Narcotic Drug, a class two felony, in violation of A.R.S. §13-3406 (A)(3).

The defendant was arraigned on September 21, 1982 and entered a plea of not guilty to all counts of the indictment. The defendant was represented by attorney Paul Hunter at said arraignment.

On October 28, 1982, the defendant appeared before the Honorable Douglas W. Keddie, Judge of the Superior Court, Yuma County, Division III and entered a plea of guilty to the crimes of Theft, a class three felony, and Possession of a Narcotic Drug, a class four felony, pursuant to a plea bargain agreement. Pursuant to said plea agreement, the State agreed to dismiss all remaining counts against the defendant. The plea agreement was read to the defendant in open court and the defendant signed it in open court in the presence of his attorney, Paul Hunter. The defendant was advised that his guilty plea would submit him to possible presumptive sentence of five (5) years imprisonment on the theft charge; and a possible presumptive sentence of four (4) years imprisonment on the possession of narcotic drug charge. The Court further advised the defendant that probation was available on both charges.

The defendant, Edward Wayne Thomas, was advised by the Court that he was giving up certain constitutional rights by entering a plea of guilty, including the right to trial by jury; the right to cross-examine witnesses against him during trial; the right to present evidence on his own behalf and his right to remain silent if he so chose. The Court asked the defendant if wished to give up those rights and enter a plea of guilty to which the defendant stated that he did. The Court determined that the plea was voluntarily made by the defendant.

On November 23, 1982, the defendant, Edward Wayne Thomas, was sentenced to five (5) years imprisonment on the theft charge; and four (4) years imprisonment on the possession of a narcotic drug with credit for one (1) day previously served; said sentences to run concurrently with each other.

The defendant, Edward Wayne Thomas, was advised of his rights to appeal and on December 2, 1982, and did, in fact, file a notice of appeal through his attorney, Paul Hunter.

ARGUABLE QUESTION PRESENTED

Counsel, after careful study of the transcript and records on appeal, is unable to find any arguable question.



PAUL HUNTER
Attorney for Appellant

CERTIFICATE OF SERVICE BY MAIL

I, PAUL HUNTER, hereby certify that on the 23rd
day of February, 1983, I served Appellee in the fore-
going case by personally placing in the United States Post
Office, postage prepaid, copies of the foregoing APPELLANT'S
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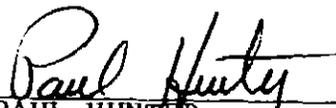
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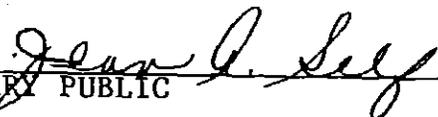
Edward Wayne Thomas

Arizona State Prison
Florence, AZ. 85232



PAUL HUNTER

SUBSCRIBED AND SWORN to before me this 23rd
day of February, 1983.



NOTARY PUBLIC

My Commission Expires:

January 15, 1987