

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



DIVISION ONE
FILED: 10/18/2012
RUTH A. WILLINGHAM,
CLERK
BY: sls

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

STATE OF ARIZONA,) No. 1 CA-CR 11-0786
)
Appellee,) DEPARTMENT D
)
v.) MEMORANDUM DECISION
)
ALEX NESKOVICH,) (Not for Publication -
) Rule 111, Rules of the
Appellant.) Arizona Supreme Court)
)

Appeal from the Superior Court in Navajo County

Cause No. S0900CR201100220

The Honorable John N. Lamb, Judge

AFFIRMED

Thomas C. Horne, Attorney General Phoenix
By Kent E. Cattani, Chief Counsel,
Criminal Appeals/Capital Litigation Section
Attorneys for Appellee

Christian C. Ackerley Lakeside
Attorneys for Appellant

G E M M I L L, Judge

¶1 Alex Neskovich appeals from his convictions and
probation for aggravated driving under the influence of an

intoxicating liquor and aggravated driving with a blood alcohol content of 0.08% or more. Both counts are class 4 felonies. Neskovich's counsel filed a brief in compliance with *Anders v. California*, 386 U.S. 738 (1967), and *State v. Leon*, 104 Ariz. 297, 451 P.2d 878 (1969), stating that he has searched the record and found no arguable question of law and requesting that this court examine the record for reversible error. Neskovich was afforded the opportunity to file a *pro se* supplemental brief but did not do so. See *State v. Clark*, 196 Ariz. 530, 537, ¶ 30, 2 P.3d 89, 96 (App. 1999). For the following reasons, we affirm.

FACTS AND PROCEDURAL HISTORY

¶12 "We view the facts and all reasonable inferences therefrom in the light most favorable to sustaining the convictions." *State v. Powers*, 200 Ariz. 123, 124, ¶ 2, 23 P.3d 668, 669 (App. 2001). Prior to his one day jury trial, Neskovich stipulated to a blood alcohol content of 0.151% within two hours of driving on May 5, 2009. The State produced evidence that the Motor Vehicle Department ("MVD"), approximately a month prior to May 5, 2009, had mailed Neskovich a notice of suspended license to the mailing address Neskovich had provided the MVD. Although Neskovich denied knowing that his license had been suspended and denied receipt of the mailed notice of suspension, the jury found Neskovich guilty on both

counts. The trial court suspended imposition of sentence and imposed a four year period of probation which included a term of requiring Neskovich be incarcerated for 120 days in the Arizona Department of Corrections, with credit for 23 days served.

DISCUSSION

¶13 Having considered defense counsel's brief and examined the record for reversible error, *see Leon*, 104 Ariz. at 300, 451 P.2d at 881, we find none. The evidence presented supports the convictions, and the imposition of probation falls within the range permitted by law. As far as the record reveals, Neskovich was represented by counsel at all stages of the proceedings, and these proceedings were conducted in compliance with his constitutional and statutory rights and the Arizona Rules of Criminal Procedure.

¶14 Pursuant to *State v. Shattuck*, 140 Ariz. 582, 584-85, 684 P.2d 154, 156-57 (1984), counsel's obligations in this appeal have ended. Counsel need do no more than inform Neskovich of the disposition of the appeal and his future options, unless counsel's review reveals an issue appropriate for submission to the Arizona Supreme Court by petition for review. Neskovich has thirty days from the date of this decision in which to proceed, if he desires, with a *pro se* motion for reconsideration or petition for review.

CONCLUSION

¶15 The convictions and imposition of probation are affirmed.

_____/s/_____
JOHN C. GEMMILL, Presiding Judge

CONCURRING :

_____/s/_____
PETER B. SWANN, Judge

_____/s/_____
ANDREW W. GOULD, Judge