IN THE
ARIZONA COURT OF APPEALS
DIVISION ONE

STATE OF ARIZONA, *Appellee*,

v.

TYLER JOHNSON-ROSSEN, *Appellant*.

No. 1 CA-CR 16-0651
FILED 6-20-2017

Appeal from the Superior Court in Maricopa County
No. CR2015-130277-001
The Honorable Joan M. Sinclair, Judge

AFFIRMED

COUNSEL

Arizona Attorney General's Office, Phoenix
By Joseph T. Maziarz
Counsel for Appellee

Maricopa County Public Defender's Office, Phoenix
By Tennie B. Martin
Counsel for Appellant

MEMORANDUM DECISION

Judge Jon W. Thompson delivered the decision of the Court, in which Presiding Judge Randall M. Howe and Judge Lawrence F. Winthrop joined.

T H O M P S O N, Judge:

¶1 This appeal was timely filed in accordance with *Anders v. California*, 368 U.S. 738 (1967), and *State v. Leon*, 104 Ariz. 297, 451 P.2d 878 (1969), following Tyler Johnson-Rossen's (defendant's) convictions on two counts of disorderly conduct, Class 6 felonies. Defendant's counsel searched the entire record on appeal and did not find any non-frivolous questions of law. He subsequently filed a brief requesting this court conduct an *Anders* review of the record for fundamental error. Defendant had the opportunity to file a supplemental brief, but did not do so.

¶2 This case arises from a dispute over a parking space at an apartment complex around 11 p.m. one night. Defendant and his friend J.H. left J.H.'s apartment complex to go grocery shopping with J.H.'s child and wife. When they returned a silver Honda Civic was in J.H.'s assigned parking spot. J.H. parked in an unassigned spot and the group went up to the apartment. Once in the apartment, J.H. called a tow truck pursuant to the apartment complex's policy. J.H. returned to the parking lot to wait for the tow truck.

¶3 Meanwhile, S.H., G.S., and J.R., the three young men in the Civic, had made a quick run upstairs to S.H.'s mother's apartment. G.S. was on crutches. Because his reserved parking spot was not available, S.H. had parked in J.H.'s reserved parking spot. When the young men returned, J.H. stated to them something to the effect that they were lucky they got back before the tow truck had come. J.H. pulled his car around behind the Civic, anticipating parking in his spot.

¶4 An argument ensued. At that point defendant returned and approached the scene. The three young men who had been getting ready to leave, instead got back out of the car. J.H. testified that the three were acting aggressive and threatening. J.R. had one of G.S.'s aluminum crutches, which defendant and J.H. assert J.R. held like a baseball bat and swung at them. Defendant pulled a gun from his waistband. Two of the young men testified that defendant pointed the gun at them. J.H. and

defendant both assert that defendant merely brandished the gun and held it by his thigh, never pointing it at anyone. The gun was out approximately one to two minutes before defendant put it away.

¶5 The argument escalated and eventually the young men stated they were calling the police. J.H. returned his car to the unassigned spot and he and defendant walked back to J.H.'s apartment. The young men called the police. Defendant returned to the parking lot to await the police.

¶6 The police arrived and spoke to the young men. Defendant voluntarily spoke to the police, he was cooperative, and informed the officer he had a gun at his waistband. Over the next couple of weeks, defendant called the police station approximately four times in an attempt to speak with the investigator. They eventually spoke and she heard his side of the situation.

¶7 Defendant was charged with three counts of aggravated assault, Class 3 dangerous felonies. At trial S.H., G.S., J.H., and defendant testified. Defendant offered a justification defense. Defendant was convicted of two counts of disorderly conduct and acquitted of the aggravated assault charges. The jury found the state failed to prove discharge, use, or threatening exhibition of a deadly weapon or infliction or threatened infliction of serious physical injury. Defendant was sentenced to three years of supervised probation.

¶8 We have read the briefs and searched the entire record for fundamental error. *See Leon*, 104 Ariz. at 300, 451 P.2d at 881. We conclude the record does not reflect any such errors. All proceedings were conducted in compliance with the Arizona Rules of Criminal Procedure and the sentences imposed were within the statutory limits. After informing defendant about this appeal's outcome and his future options, defendant's counsel is released from his obligations under this appeal. *See State v. Shattuck*, 140 Ariz. 582, 584-85, 684 P.2d 154, 156-57 (1984). Defendant has thirty days from the date of this decision to proceed, if he wishes, with a *pro per* petition for review.

AMY M. WOOD • Clerk of the Court
FILED: AA