

NOTICE: NOT FOR OFFICIAL PUBLICATION.
UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL
AND MAY BE CITED ONLY AS AUTHORIZED BY RULE.

IN THE
ARIZONA COURT OF APPEALS
DIVISION ONE

STATE OF ARIZONA, *Appellee*,

v.

PHILIP MICHAEL JENKS, *Appellant*.

No. 1 CA-CR 16-0847
FILED 8-17-2017

Appeal from the Superior Court in Maricopa County
No. CR2016-001216-001
The Honorable David O. Cunanan, Judge

AFFIRMED

COUNSEL

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

Maricopa County Public Defender's Office, Phoenix
By Paul J. Prato
Counsel for Appellant

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MEMORANDUM DECISION

Judge Jon W. Thompson delivered the decision of the Court, in which Presiding Judge Kent E. Cattani and Judge Paul J. McMurdie joined.

T H O M P S O N, Judge:

¶1 This case comes to us as an appeal under *Anders v. California*, 386 U.S. 738 (1967), and *State v. Leon*, 104 Ariz. 297, 451 P.2d 878 (1969). Counsel for Philip Michael Jenks (defendant) has advised us that, after searching the entire record, he has been unable to discover any arguable questions of law and has filed a brief requesting this court to conduct an *Anders* review of the record. Defendant also filed a supplemental brief asserting the trial court abused its discretion by allowing the case to go to trial after defendant informed the courts that he was not ready to begin trial due to poor communication between himself and his attorney.

¶2 One evening in September 2016, D.P., a security guard at a Motel 6 on North Black Canyon Road, received a roster for the complex, and started his “usual rounds.” D.P. walked past Room 586, where the door was open “[a]bout three quarters of the way” and observed defendant in the room. D.P. observed what appeared to be criminal activity. The defendant “approached the door where [D.P.] was standing” and tried to close it; D.P. prevented the closure by putting his foot at the base of the door. The defendant “struck [D.P.] with a closed fist” and D.P. deployed a canister of pepper spray. The defendant escaped. D.P. entered the hotel room, went into the bathroom to ensure no one else was in the room, and “secured the room” by closing the door behind him until Phoenix Police arrived.

¶3 Three police officers responded to the motel, entered Room 586 to do a protective sweep and observed a printer that was still on, with the lid open, and a \$50 bill on it. When defendant was located, he was brought back to the motel where police conducted a one-on-one identification with D.P., who identified the defendant as the individual he got into a fight with.

¶4 Phoenix Police Detective Jason Harris, a counterfeit currency expert, responded to a call at the motel and “author[ed] a search warrant for Room 586.” After receiving the warrant, Detective Harris processed the

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room and found multiple items used in manufacturing counterfeit currency: a razor blade and counterfeit currency, pencils and white-out pens, open ink cartridges in assorted colors, and a HP copier with a \$50 bill on the glass of the copier. Detective Harris also recovered three \$50 bills with the serial number JD75765073A, multiple \$50 bills with the serial number JL28914779A, a partially printed \$5 bill, normal copy paper folded in half with a \$50 and a \$10 printed on one side, and defendant's Arizona identification card. The defendant later admitted he "stayed in that room."

¶5 The state charged defendant with three counts of forgery, a class 4 felony, and one count of criminal possession of a forgery device, a class 5 felony. A jury found defendant guilty on all counts. The court then conducted the aggravation phase of the trial and the jury found that defendant was on felony release at the time of the offense and that the crime was committed for pecuniary gain. For counts 1-3, defendant was sentenced to a presumptive sentence of 12 years, to be served concurrently, and 7 years for count 4, concurrent with counts 1-3, with credit for 285 days of presentence incarceration.

¶6 In his supplemental brief, defendant asserts the trial court violated his Sixth Amendment right to effective assistance of counsel. *See* U.S. Const. amend VI. Specifically, defendant argues that because he informed the judge that he was not prepared to begin trial due to poor communication with his counsel, the trial court abused its discretion. This court will not consider claims of ineffective assistance of counsel arguments raised on direct appeal. *State ex rel. Thomas v. Rayes*, 201 Ariz. 411, 153 P.3d 1040 (2007); *State v. Spreitz*, 202 Ariz. 1, 3, ¶ 9, 39 P.3d 525, 527 (2002). Such claims must be first presented to the trial court in a petition for post-conviction relief. *Id.*

¶7 We have read and considered defendant's *Anders* brief, and we have searched the entire record for reversible error. *See Leon*, 101 Ariz. at 300, 451 P.2d at 881. We find none. All of the proceedings were conducted in compliance with the Arizona Rules of Criminal Procedure, and the sentences imposed were within the statutory limits. Pursuant to *State v. Shattuck*, 140 Ariz. 582, 584-85, 684 P.2d 154, 156-57 (1984), defendant's counsel's obligations in this appeal are at an end. Defendant has thirty days from the date of this decision in which to proceed, if he so desires, with an *in propria persona* motion for reconsideration or petition for review.

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¶8

We affirm the convictions and sentences.



AMY M. WOOD • Clerk of the Court
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