

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL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.

GENE JONES, *Appellant*.

No. 1 CA-CR 16-0888
FILED 7-6-2017

Appeal from the Superior Court in Maricopa County
No. CR 2013-445527-001
The Honorable Charles Donofrio, Judge *Pro Tempore* (Retired)

AFFIRMED

COUNSEL

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

Maricopa County Public Defender's Office, Phoenix
By Joel M. Glynn
Counsel for Appellant

STATE v. JONES
Decision of the Court

MEMORANDUM DECISION

Presiding Judge Margaret H. Downie delivered the decision of the Court, in which Judge Kenton D. Jones and Judge Donn Kessler joined.

D O W N I E, Judge:

¶1 Gene Jones appeals the revocation of his probation and resulting prison sentence. Pursuant to *Anders v. California*, 386 U.S. 738 (1967), and *State v. Leon*, 104 Ariz. 297 (1969), defense counsel has searched the record, found no arguable question of law, and asked that we review the record for reversible error. See *State v. Richardson*, 175 Ariz. 336, 339 (App. 1993). Jones was given the opportunity to file a supplemental brief *in propria persona*, but he has not done so. For the following reasons, we affirm.

FACTS AND PROCEDURAL HISTORY

¶2 In December 2013, Jones was charged with one count of assault and three counts of aggravated assault, all domestic violence offenses in violation of Arizona Revised Statutes (“A.R.S.”) sections 13-1203, -1204, and -3601. On March 5, 2014, Jones pleaded guilty to one count of aggravated assault and one count of attempted aggravated assault. The superior court sentenced him to two years’ imprisonment on the aggravated assault charge, with 77 days of presentence incarceration credit, and three years’ probation for the attempted aggravated assault charge.

¶3 As a condition of probation, Jones was to have no “contact with the victim(s) in any form.” Approximately three months after his release from prison, Jones’s probation officer filed a revocation petition based on his alleged contact with the victim. At a disposition hearing, Jones admitted having contact with the victim. The court suspended imposition of sentence and continued Jones on probation.

¶4 Two months later, the probation officer again petitioned to revoke Jones’s probation, alleging he had failed to report to the probation department and his whereabouts were unknown. At the ensuing disposition hearing, Jones admitted failing to report to the probation department. The court again suspended imposition of sentence and continued Jones on probation, with a revised expiration date. Soon

STATE v. JONES
Decision of the Court

thereafter, Jones's probation officer filed a third revocation petition. The petition alleged that Jones admitted using Percocet and Vicodin without a valid prescription and that he used methamphetamine in violation of his terms of probation.

¶5 On September 28, 2016, the superior court held a probation violation hearing. Probation officer Piper testified that she met with Jones on June 8, 2016, and while discussing his recent hospital stay, he admitted using methamphetamine on June 4 and 6. Jones denied telling Piper he used methamphetamine, but admitted he had used Vicodin. When the prosecutor confronted Jones with a document that stated he had used methamphetamine on June 4 and 6, and Percocet and Vicodin on June 8, Jones admitted that he signed it. The superior court found by a preponderance of the evidence that Jones violated the terms of his probation. At the disposition hearing, the court heard testimony from the victim, the victim's daughter, Jones, and Jones's mother. The court concluded that the aggravating factors outweighed the mitigating factors and sentenced Jones to an aggravated term of three years' imprisonment, with 208 days of presentence incarceration credit. This Court has jurisdiction over Jones's timely appeal pursuant to Article 6, Section 9, of the Arizona Constitution and A.R.S. § 13-4033(A)(1).

DISCUSSION

¶6 We have reviewed the entire record but found no reversible error. All of the proceedings were conducted in compliance with the Arizona Rules of Criminal Procedure, ample evidence established the probation violations, and the sentence imposed was within the statutory range. *See* A.R.S. §§ 13-701(D) (aggravating factors), -702(B) (discretion in imposing an aggravated term), and (D) (sentencing range). Jones was present at all critical phases of the proceedings and was represented by counsel.

CONCLUSION

¶7 We affirm the probation revocation and resulting sentence. Counsel's obligations pertaining to Jones's representation in this appeal have ended. Counsel need do nothing more than inform Jones of the status 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. *State v. Shattuck*, 140 Ariz. 582, 584-85 (1984). On the court's own motion, Jones shall have thirty days from the date of this decision to

STATE v. JONES
Decision of the Court

proceed, if he desires, with an *in propria persona* motion for reconsideration or petition for review.



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