

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
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IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

STATE OF ARIZONA,)
) No. 1 CA-CR 09-0324
)
 Appellee,) DEPARTMENT E
)
 v.) **MEMORANDUM DECISION**
)
 JACK EDWARD PARKER,) (Not for Publication -
) Rule 111, Rules of the
 Appellant.) Arizona Supreme Court)
)
)

Appeal from the Superior Court in Maricopa County

Cause No. CR 2008-141760-001 DT

The Honorable Michael D. Jones, Judge

AFFIRMED

Terry Goddard, Arizona Attorney General Phoenix
by Kent E. Cattani, Chief Counsel,
Criminal Appeals/Capital Litigation Section
Attorneys for Appellee

James J. Haas, Maricopa County Public Defender Phoenix
by Thomas Baird, Deputy Public Defender
Attorneys for Appellant

H A L L, Judge

¶1 Jack Edward Parker (defendant) appeals from his convictions and the sentences imposed.

¶2 Defendant's appellate counsel filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967), and *State v. Leon*, 104 Ariz. 297, 451 P.2d 878 (1969), advising that, after a diligent search of the record, he was unable to find any arguable grounds for reversal. This court granted defendant an opportunity to file a supplemental brief, which he has not done. See *State v. Clark*, 196 Ariz. 530, 537, ¶ 30, 2 P.3d 89, 96 (App. 1999).

¶3 We review for fundamental error, error that goes to the foundation of a case or takes from the defendant a right essential to his defense. See *State v. King*, 158 Ariz. 419, 424, 763 P.2d 239, 244 (1988). We view the evidence presented at trial in a light most favorable to sustaining the verdict. *State v. Cropper*, 205 Ariz. 181, 182, ¶ 2, 68 P.3d 407, 408 (2003). Finding no reversible error, we affirm.

¶4 Defendant was charged by indictment with one count of theft of means of transportation (Count I), a class three felony, in violation of Arizona Revised Statutes (A.R.S.) section 13-1814(A)(1) (Supp. 2008), and one count of unlawful flight from law enforcement vehicle (Count II), a class five felony, in violation of A.R.S. § 28-622.01 (2004).

¶15 The following evidence was presented at trial. At approximately 3:30 a.m. the morning of July 3, 2008, J.G., an employee of Degan Construction arrived at the construction yard located at Pima and 33rd Street in Phoenix. He noticed that the gate was open and some vehicles and equipment were missing. He immediately called the police and the owner of the company.

¶16 The owner of the company informed the police that a 1999 F250 pick-up truck, a 2000 Chevy 3500 one-ton diesel pick-up truck, and a 14,000-pound capacity equipment trailer were missing from the yard. He provided the police with the license plate and vehicle identification numbers of the missing vehicles and trailer.

¶17 Officer J.B. of the Phoenix Police Department later observed a vehicle matching the description of the stolen 2000 Chevy one-ton pick-up truck. A search of the license plate through the database revealed that the vehicle had been reported stolen. He conducted a search on the license plate and it came back as one of the vehicles stolen from the construction yard. Officer J.B. requested vehicle backup as well as a helicopter. Once the units arrived, the officer maneuvered directly behind the stolen vehicle and activated his overhead lights and siren. The officer testified that the vehicle then accelerated and the trailer behind the vehicle became unhitched as the vehicle sped

away. At that point, Officer J.B. stopped his pursuit of the vehicle to attend to the runaway trailer.

¶18 Officer C.N. of the Phoenix Police Department responded as back-up to Officer J.B.'s call. He observed that the vehicle appeared to be traveling at a high rate of speed and that it almost collided with another patrol car. The officer was able to observe that defendant was the driver.

¶19 Shortly thereafter, the vehicle was found abandoned and the police on site were notified that a local resident had reported that someone ran into his backyard. Defendant was found hiding in that backyard and was taken into custody.

¶10 After a three-day trial, the jury found defendant guilty as charged. The trial court found defendant had one historical prior felony conviction and sentenced defendant to a presumptive term of six and one-half years imprisonment on Count I and a concurrent, presumptive term of two and one-quarter years of imprisonment on Count II.

¶11 We have read and considered counsel's brief and have searched the entire record for reversible error. See *Leon*, 104 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. Defendant was given an opportunity to speak before sentencing, and the sentence imposed was within statutory limits. Furthermore, based on our review of the

