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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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BY: DN

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION ONE

STATE OF ARIZONA, ) 1 CA-CR 09-0332  
)  
Appellee, ) DEPARTMENT E  
)  
v. ) **MEMORANDUM DECISION**  
) (Not for Publication -  
SHAWNA MARIE HARGIS, ) Rule 111, Rules of the  
) Arizona Supreme Court)  
Appellant, )  
\_\_\_\_\_ )

Appeal from the Superior Court in Maricopa County

Cause No. CR2008-104777-001 DT

The Honorable Pamela Hearn Svoboda, Judge *Pro Tempore*

**AFFIRMED**

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

Bruce F. Peterson, Maricopa County Legal Advocate Phoenix  
By Kerri L. Chamberlin, Deputy Legal Advocate  
Attorneys for Appellant

Shawna Marie Hargis Goodyear  
Appellant *in propria persona*

**O R O Z C O**, Judge

¶1 Shawna Marie Hargis (Defendant) appeals her conviction and sentence for one count of burglary in the third degree, a class four felony.

¶2 Defendant's 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 this Court that after a search of the entire appellate record, she found no arguable question of law that was not frivolous. Defendant filed a supplemental brief in propria persona.

¶3 Our obligation in this appeal is to review "the entire record for reversible error." *State v. Clark*, 196 Ariz. 530, 537, ¶ 30, 2 P.3d 89, 96 (App. 1999). We have jurisdiction pursuant to Article 6, Section 9, of the Arizona Constitution, and Arizona Revised Statutes (A.R.S.) sections 12-120.21.A.1 (2003), 13-4031, and -4033.A.1 (2010).<sup>1</sup> Finding no reversible error, we affirm.

#### **FACTS AND PROCEDURAL HISTORY**

¶4 When reviewing the record, "we view the evidence in the light most favorable to supporting the verdict." *State v. Torres-Soto*, 187 Ariz. 144, 145, 927 P.2d 804, 805 (App. 1996).

¶5 On October 7, 2007, N.P. (Victim) parked her vehicle in the driveway of her condominium. She left her vehicle locked with the windows cracked less than an inch. The next morning, on October 8, 2007, Victim found her passenger-side door cracked open about one or two inches. Victim found her vehicle's

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<sup>1</sup> We cite to the current version of the applicable statutes because no revisions material to this decision have since occurred.

interior to be in disarray and noticed that several CD's and her garage door opener were missing. Later that day, Officer K. responded to Victim's telephone call to the police regarding the break-in.

¶16 Officer K. recovered several fingerprints from the interior and exterior of the front passenger window. Officer K. testified that the fingerprints were lifted in an area that could have been a point of entry into the vehicle. Ultimately, five fingerprints were matched to Defendant's known fingerprints. Victim did not know Defendant or give Defendant permission to enter her vehicle.

¶17 The jury found Defendant guilty of burglary in the third degree. Defendant subsequently admitted to having four prior felony convictions. The trial court sentenced Defendant to a presumptive term of ten years' imprisonment, with 199 days of pre-sentence incarceration credit. Defendant filed a timely notice of appeal.

## **DISCUSSION**

### **Ineffective Assistance of Counsel**

¶18 In Defendant's supplemental brief, she argues she is entitled to relief "under Ineffective Assistance of Counsel." We do not address claims of ineffective assistance of counsel on appeal. *State v. Spreitz*, 202 Ariz. 1, 3, ¶ 9, 39 P.3d 525, 527 (2002). Such claims may only be addressed in a proceeding for

post-conviction relief. Ariz. R. Crim. P. 32; see *id.* Accordingly, we decline to address Defendant's argument as it relates to ineffective assistance of counsel.

¶9 To the extent Defendant argues the trial court erred in denying her motion for change of counsel, we reject her argument.<sup>2</sup> Defendant never filed a motion for change of counsel in this case. After reviewing the Integrated Court Information System, we found the motion for change of counsel mentioned in Defendant's supplemental brief was filed in a separate case, CR2008-162813-001 SE. Although these cases proceeded during the same period of time, they were never consolidated. As a result, we decline to consider Defendant's argument relating to her motion for change of counsel because it was filed in a separate case.

#### **Sufficiency of the Evidence**

¶10 "The finder-of-fact, not the appellate court, weighs the evidence and determines the credibility of witnesses." *State v. Cid*, 181 Ariz. 496, 500, 892 P.2d 216, 220 (App. 1995). We will not disturb the fact finder's "decision if there is substantial evidence to support its verdict." *Id.*

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<sup>2</sup> Defendant states in her supplemental brief that "[o]n February 18, 2009[, Defendant] filed a motion with the court to change counsel. On numerous occasions [sic] [Defendant] request [sic] his assistance in getting a ruling on this motion. No ruling was ever given on this motion."

¶11 Pursuant to A.R.S. § 13-1506.A.1 (2010), “[a] person commits burglary in the third degree by . . . [e]ntering or remaining unlawfully in or on a nonresidential structure . . . with the intent to commit any theft or any felony therein.” Pursuant to A.R.S. § 13-1501.10 (2010), a “[n]onresidential structure” means any structure other than a residential structure.” (Emphasis added.) The statutory definition of “structure,” includes “vehicle.” A.R.S. § 13-1501.12. In this case, the State presented sufficient evidence linking Defendant to the commission of the alleged crime. Victim testified that her CD’s and her garage door opener were stolen from inside her vehicle. Officer K. testified that he recovered several fingerprints from the interior and exterior front passenger window, which he thought could have been a point of entry into the vehicle. Five of the fingerprints recovered were matched to Defendant. Although the evidence linking Defendant to the alleged burglary in this case is circumstantial, “[i]t is well established in our state that a crime may be proven by circumstantial evidence alone, and that fingerprints are a means of positive identification by which a defendant may be linked with the commission of the offense.” *State v. Brady*, 2 Ariz. App. 210, 213, 407 P.2d 399, 402 (1965). We find substantial evidence supports the jury’s verdict. *Cid*, 181 Ariz. at 500, 892 P.2d at 220.

## CONCLUSION

¶12 We have read and considered both briefs, carefully searched the entire record for reversible error and found none. *Clark*, 196 Ariz. at 541, ¶ 49, 2 P.3d at 100. All of the proceedings were conducted in compliance with the Arizona Rules of Criminal Procedure and substantial evidence supported the jury's finding of guilt. Defendant was present and represented by counsel at all critical stages of the proceedings. At sentencing, Defendant and her counsel were given an opportunity to speak and the court imposed a legal sentence.

¶13 Counsel's obligations pertaining to Defendant's representation in this appeal have ended. Counsel need do nothing more than inform Defendant of the status of the appeal and her 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, 684 P.2d 154, 156-57 (1984). Defendant shall have thirty days from the date of this decision to proceed, if she so desires, with an in propria persona motion for reconsideration or petition for review.<sup>3</sup>

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<sup>3</sup> Pursuant to Arizona Rule of Criminal Procedure 31.18.b, Defendant or her counsel have fifteen days to file a motion for reconsideration. On the Court's own motion, we extend the time to file such a motion to thirty days from the date of this decision.

¶14 For the foregoing reasons, Defendant's conviction and sentence are affirmed.

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PATRICIA A. OROZCO, Judge

CONCURRING:

/S/

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PHILIP HALL, Presiding Judge

/S/

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DONN KESSLER, Judge