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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

IN THE  
COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION ONE



DIVISION ONE  
FILED: 02-25-2010  
PHILIP G. URRY, CLERK  
BY: DN

STATE OF ARIZONA, )  
 )  
 Appellee, ) 1 CA-CR 09-0433  
 )  
 v. ) DEPARTMENT E  
 )  
 ) MEMORANDUM DECISION  
 JAMIE PAUL DEXTER, ) (Not for Publication -  
 ) Rule 111, Rules of the  
 Appellant. ) Arizona Supreme Court)  
\_\_\_\_\_ )

Appeal from the Superior Court of Maricopa County

Cause No. CR 2008-159111-001 DT

The Honorable Joseph C. Welty, Judge

**AFFIRMED**

Terry Goddard, Attorney General  
by Kent E. Cattani, Chief Counsel  
Criminal Appeals Section  
Attorneys for Appellee

Phoenix

Sharmila Roy  
Attorney for Appellant

Laveen

**W E I S B E R G**, Judge

¶1 Jamie Paul Dexter ("Defendant") appeals from his convictions and sentences imposed after a jury trial. Defendant's counsel has filed a brief in accordance with *Anders v. California*, 386 U.S. 738, 744 (1967), and *State v. Leon*, 104 Ariz. 297, 299,

451 P.2d 878, 880 (1969), advising this court that after a search of the entire record on appeal, she finds no arguable ground for reversal. This court granted Defendant an opportunity to file a supplemental brief, but nothing was filed. Counsel now requests that we search the record for fundamental error. *Anders*, 386 U.S. at 744; *State v. Clark*, 196 Ariz. 530, 537, ¶ 30, 2 P.3d 89, 96 (App. 1999).

¶12 We have jurisdiction pursuant to Arizona Revised Statutes (“A.R.S.”) sections 12-120.21(A)(1) (2003), 13-4031 (2001), and 13-4033 (A) (2001). Finding no reversible error, we affirm.

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

¶13 We review the facts in the light most favorable to sustaining the verdicts. *See State v. Stroud*, 209 Ariz. 410, 412, ¶ 6, 103 P.3d 912, 914 (2005). Defendant was indicted for aggravated assault, a Class 4 felony, committed on September 14, 2008, in violation of A.R.S. § 13-1204(A)(3) (Supp. 2009) and for assault, a Class 1 misdemeanor, committed on September 12, 2008, in violation of A.R.S. § 13-1203(A)((1)(2001), both domestic violence offenses. The State alleged two historical prior felony convictions and aggravating circumstances other than prior convictions.

¶14 The facts presented at trial showed the following. On September 12, 2008, Defendant was living with the victim and her son. On that day, Defendant pushed the victim down, causing her to fall and cut her lip. On September 14, 2008, Defendant slammed the

victim's head into the wall several times and then hit her in the face. On September 15, 2008, the victim's mother took her to the hospital. She had two black eyes, a broken eye socket and a broken nose. The victim told a police officer at the hospital that Defendant was the perpetrator of the assault and the aggravated assault, but that she did not want to file a police report and did not want Defendant to go to jail. However, she recanted those statements at trial.

¶15 She testified that she cut her lip when she tripped and hit it on a windowsill. She also mentioned falling down the stairs at her apartment. As to the other injuries, she testified that on September 14, she and Defendant argued when she accused him of having an affair with a girl living in an apartment downstairs. She said that Defendant left their apartment, that she went downstairs and confronted the girl. She stated she hit the girl in the face and the girl hit her back, then pushed her down, causing her head to hit the concrete sidewalk. The victim claimed not to remember her earlier accusations against Defendant. She explained she told the police officer that Defendant assaulted her because she has mental disorders, was not taking her medication and was acting "crazy" and that she lied to the police to get "attention."

¶16 The victim's trial testimony was also inconsistent with other pretrial statements she and another witness made to police officers. On September 19, 2008, Officer Thatcher responded to a call of a disturbance at a Circle K, where he spoke with the victim

who was upset and crying because Defendant had been arrested that day. He observed that the victim had bilateral bruising around her eyes. The victim told the officer she instigated a fight with Defendant when she hit him with a curling iron and that she deserved to go to jail or wanted to go jail with him. She did not mention having a fight with a girl or falling down the stairs at her apartment.

¶17 During a taped interview with Detective Gledraitis on that same day, the victim again said she had started the fight with Defendant by hitting him with a curling iron and that she had egged him on. She tried to put the blame on herself and was "demanding to be arrested." She did not mention anything about having an altercation with a "woman downstairs."

¶18 Detective Gaxiola explained that victims of domestic violence often recant to protect their abusers, for emotional and psychological reasons and because of threats of retaliation. She testified that she arrested Defendant on September 19 at an apartment rented by a friend, S. During an interview after his arrest, Defendant told Officer Gaxiola that on September 14, the victim got into a fight with a "tenant from downstairs, who "he was messing around with." He did not mention being hit by a curling iron or the victim falling down the stairs.

¶19 S.S. testified on Defendant's behalf. He said that on September 14, Defendant called and told him that he and the victim were fighting, that he needed to leave the apartment and asked S.S.

to pick him up. He said he saw the victim then, that she was yelling and accusing Defendant of having an affair, but that she did not have any injuries. He testified that when he brought Defendant back to the apartment later on, he saw that the victim had facial injuries.

¶10 However, the police had interviewed S.S. on the day Defendant was arrested. He told an officer that the victim picked up Defendant from his apartment that night. He also told the officer about an alleged incident several days prior to September 14, when he saw the victim and observed that her nose was bleeding. According to S.S., this happened when the victim fell down the stairs and hit her face on a railing. S.S. denied telling police anything about the events of September 14.

¶11 The jury found Defendant guilty as charged. The court found the State had proven that Defendant had two historical prior felony convictions. The court imposed a presumptive ten-year sentence for aggravated assault and a concurrent 96-day sentence for misdemeanor assault, with 96 days of presentence incarceration credit.

#### CONCLUSION

¶12 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. So far as the record reveals, Defendant was

represented by counsel at all stages of the proceedings, and the sentence imposed was within the statutory limits and that there was sufficient evidence for the jury to find that the offenses were committed by Defendant.

¶13 After the filing of this decision, counsel's obligations pertaining to Defendant's representation in this appeal have ended. Counsel need do no more than inform Defendant of the status of the appeal and of Defendant's future options, unless counsel's review reveals an issue appropriate for submission to the Arizona Supreme Court by petition for review. 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 desires, with a motion for reconsideration or petition for review *in propria persona*.

¶14 Accordingly, we affirm Defendant's conviction and sentence.

\_\_\_\_\_/S/\_\_\_\_\_  
SHELDON H. WEISBERG,  
Presiding Judge

CONCURRING:

\_\_\_\_\_/S/\_\_\_\_\_  
PHILIP HALL, Judge

\_\_\_\_\_/S/\_\_\_\_\_  
JOHN C. GEMMILL, Judge