

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  
FILED: 05-27-2010  
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IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION ONE

STATE OF ARIZONA, )  
 ) No. 1 CA-CR 09-0831  
 )  
 Appellee, ) DEPARTMENT E  
 )  
 v. ) **MEMORANDUM DECISION**  
 )  
 ANDY BUNTON, ) (Not for Publication -  
 ) Rule 111, Rules of the  
 Appellant. ) Arizona Supreme Court)  
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Appeal from the Superior Court in Maricopa County

Cause No. CR2008-172904-001 DT

The Honorable Lisa Daniel Flores, Judge

**AFFIRMED**

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

James Haas, Maricopa County Public Defender Phoenix  
by Spencer D. Heffel, Deputy Public Defender  
Attorneys for Appellant

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H A L L, Judge

¶1 Andy Bunton (defendant) appeals from his conviction and the sentence imposed. 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).

¶2 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 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.

¶3 Defendant was charged by indictment with one count of aggravated assault, a class three felony, in violation of Arizona Revised Statutes (A.R.S.) section 13-1204(A)(2) (2010).

¶4 The following evidence was presented at trial. D.R. testified that on November 20, 2008, defendant, a friend of D.R., came to his home and appeared to be "tired, thirsty, sleepy." D.R. escorted defendant to his son's room and allowed him to lay down and rest for awhile. While defendant was

resting, another friend of D.R. arrived at the home and asked D.R. for some bike parts. D.R. testified that he and this other friend were looking for bike parts in D.R.'s room when defendant came into the room. D.R. further stated that defendant appeared angry and was "getting kind of violent." The other friend was offended and wanted to confront defendant, but D.R. persuaded his friend to leave the room. Defendant stayed in the bedroom and the other friend went to the living room and left approximately twenty minutes later.

¶15 D.R. later went to check on defendant and observed him with a screwdriver in his hand. D.R. asked him to put it down and proceeded to take it away. Defendant told D.R. that it was not for him. D.R. left defendant in the room again only to come back a short time later to find another screwdriver in his hand. D.R. testified that he got nervous and asked defendant to leave.

¶16 Approximately twenty minutes later, defendant reappeared at D.R.'s house. R.R., D.R.'s son, answered the door and let him in. D.R. testified that he got up from the couch, went to the door and before he could say anything, defendant stabbed him in the stomach with a knife. D.R. screamed and asked "why did you stab me?" D.R. testified that defendant just had this "blank look in his face." D.R. moved a coffee table between defendant and his family, grabbed a broom stick, and

shoved defendant out the door. C.T., D.R.'s wife, then called 9-1-1.

¶17 When Officer B.A. of the Glendale Police Department arrived on the scene, he observed D.R. sitting on a chair holding a towel to his abdominal area. The officer spoke with D.R., his wife, and their son and was informed that defendant had stabbed D.R.

¶18 Officer S.J. of the Glendale Police Department searched for defendant. Eventually, he found defendant in a grove of trees and placed him under arrest.

¶19 Defendant was evaluated for mental competency and found competent to stand trial. Through counsel, defendant claimed at trial that the stabbing was the result of mistake or accident. After a three-day trial, the jury found defendant guilty as charged. The trial court found that defendant had two historical prior felony convictions and sentenced him to the presumptive term of 11.25 years in prison.

¶10 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

record, there was sufficient evidence for the jury to find that defendant committed the offenses for which he was convicted.

¶11 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 his 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 pro per motion for reconsideration or petition for review. Accordingly, defendant's conviction and sentence are affirmed.

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/s/ PHILIP HALL, Judge

CONCURRING:

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/s/ SHELDON H. WEISBERG, Presiding Judge

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/s/ JOHN C. GEMMILL, Judge