

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: 08/24/2010
RUTH WILLINGHAM,
ACTING CLERK
BY: GH

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

STATE OF ARIZONA,) 1 CA-CR 09-0949
)
Appellee,) DEPARTMENT A
)
v.) **MEMORANDUM DECISION**
)
TRACY LEE ROBINSON,)
) (Not for Publication -
Appellant.) Rule 111, Rules of the
) Arizona Supreme Court
)
)
)
)
)
)
)

Appeal from the Superior Court in Mohave County

Cause No. CR-2009-0718

The Honorable Derek Carlisle, Judge *Pro Tempore*

AFFIRMED

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

John A. Pecchia, Mohave County Public Defender Kingman
By Jill L. Evans, Mohave County Appellate Defender
Attorneys for Appellant

B A R K E R, Judge

¶1 Tracy Lee Robinson appeals from his conviction and sentence for one count of resisting arrest. Robinson'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 searching the entire record on appeal, she finds no arguable ground for reversal. We granted Robinson leave to file a supplemental brief *in propria persona* on or before July 19, 2010, but he did not do so.

¶2 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 (2010), and 13-4033(A) (2010). We are required to search the record for reversible error. Finding no such error, we affirm.

Facts and Procedural Background¹

¶3 In the early morning hours on July 6, 2009, Deputy P. and Deputy G. of the Mohave County Sheriff's Office were parked at an intersection when Robinson's car failed to completely stop at the stop sign. Deputy P. drove behind Robinson's car, turned on his overhead emergency lights, and sounded his siren twice in an effort to make a traffic stop. Deputy G. followed Deputy

¹ We view the facts in the light most favorable to sustaining the court's judgment and resolve all inferences against Robinson. *State v. Fontes*, 195 Ariz. 229, 230, ¶ 2, 986 P.2d 897, 898 (App. 1998); *State v. Moore*, 183 Ariz. 183, 186, 901 P.2d 1213, 1216 (App. 1995).

P.'s vehicle. Each officer was driving a marked vehicle and was dressed in uniform.

¶14 Robinson's car accelerated to thirty-five miles per hour over the speed limit and ran through a second stop sign. Robinson then parked his car, exited the vehicle, looked at Deputy P., and tried to enter his brother's home. After parking his patrol car, Deputy P. identified himself as a police officer and told Robinson to stop because he was under arrest. Deputy P. then approached Robinson and struggled to arrest him. Robinson spun around and used his left hand to break Deputy P.'s grip on Robinson's shirt. Deputy P. told Robinson he was under arrest and ordered him to stop resisting arrest about seven times. It took the deputies four to five minutes to arrest Robinson because he was swaying his body, elbowing the deputies in the chest, and trying to keep his fists away from the deputies. During the struggle, Deputy G. felt threatened because Robinson's hand was close to his gun.

¶15 Robinson was charged with resisting arrest, a class six felony pursuant to A.R.S. § 13-2508 (Supp. 2009). The jury heard testimony from Deputy G., Deputy P., and a third deputy. Robinson presented testimony from his brother and two neighbors who witnessed the arrest and testified that Robinson did not resist arrest.

¶16 The eight-member jury found Robinson guilty of one count of resisting arrest. The State then presented evidence that Robinson committed this crime while released on another felony offense, and the jury found the State proved this allegation. Robinson was sentenced to two years and nine months imprisonment, which consisted of a mitigated term of nine months imprisonment for resisting arrest and two years imprisonment for resisting arrest while released on another felony. Robinson was awarded eighty-six days of presentence incarceration credit. Robinson filed this timely notice of appeal.

Disposition

¶17 We have reviewed the record and found no meritorious grounds for reversal of Robinson's conviction or for modification of the sentence imposed. See *Anders*, 386 U.S. at 744; *Leon*, 104 Ariz. at 300, 451 P.2d at 881. Robinson was present at all critical stages of the proceedings and was represented by counsel. All proceedings were conducted in accordance with the Arizona Rules of Criminal Procedure.

¶18 After the filing of this decision, counsel's obligations in this appeal have ended subject to the following. Counsel need do no more than inform Robinson of the status of the appeal and Robinson's 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).
Robinson 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.

/s/

DANIEL A. BARKER, Judge

CONCURRING:

/s/

PATRICIA A. OROZCO, Presiding Judge

/s/

LAWRENCE F. WINTHROP, Judge