

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: 10-05-2010
RUTH WILLINGHAM,
ACTING CLERK
BY: GH

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

STATE OF ARIZONA,)
) No. 1 CA-CR 10-0070
)
 Appellee,) DEPARTMENT E
)
 v.) **MEMORANDUM DECISION**
)
 DANIEL LEE SHIPLEY,) (Not for Publication -
) Rule 111, Rules of the
 Appellant.) Arizona Supreme Court)
)
)

Appeal from the Superior Court in Mohave County

Cause Nos. CR 2008-1102 and 2008-1229

The Honorable Steven F. Conn, Judge

AFFIRMED

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

Mohave County Appellate Defender Kingman
by Jill L. Evans
Attorneys for Appellant

H A L L, Judge

¶1 Daniel Lee Shipley (defendant) appeals from the revocation of his probation and the sentence 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, she 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 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 On October 9, 2008, defendant was charged by indictment in CR 2008-1102 with one count of theft of means of transportation, a class three felony, in violation of Arizona Revised Statutes (A.R.S.) section 13-1814(A)(1) (2010); one count of endangerment, a class one misdemeanor, in violation of A.R.S. § 13-2101 (2010); and one count of harassment, a class one misdemeanor, in violation of A.R.S. § 13-2921(A)(1) (2010).

On November 6, 2008, in case number CR 2008-1229, defendant was charged by indictment with one count of theft, a class six felony, in violation of A.R.S. § 13-1802(A)(1) (2010); and one count of unlawful use of means of transportation, a class six felony, in violation of A.R.S. § 13-1803 (2010). Defendant pled guilty to the lesser crime of attempted theft of means of transportation, a class four felony, in CR 2008-1102 and theft, a class six felony, in CR 2008-1229. The court accepted the pleas and placed defendant on three years probation. The court also ordered defendant to serve twelve months in jail with eligibility for work furlough.

¶15 On July 31, 2009, the state filed a petition to revoke probation alleging that defendant violated the terms of his probation by: (1) failing to obey all laws (allegedly committing the crime of unlawful flight from a pursuing law enforcement vehicle);¹ (2) failing to report to the Adult Probation Department as directed; and (3) failing to submit to drug and alcohol testing.

¶16 At the probation violation hearing, R.D. of the Mohave County Adult Probation Department testified that defendant violated his probation by failing to report to the probation department on June 15, 2009 and June 22, 2009 as directed. R.D.

¹ The State subsequently withdrew this allegation.

also testified that defendant failed to submit to drug testing at TASC on June 12, 2009 and June 24, 2009 as directed.

¶17 After the hearing, the court found defendant had violated his probation and revoked defendant's probation. The court sentenced defendant to the presumptive term of two and one-half years in prison in CR 2008-1102 and the presumptive term of one year in prison in CR 2008-1229, to be served consecutively.

¶18 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 sentences imposed were within statutory limits. Furthermore, based on our review of the record, there was sufficient evidence to find that defendant violated his probation.

¶19 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-

