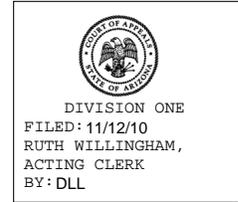


NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED  
EXCEPT AS AUTHORIZED BY APPLICABLE RULES.  
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);  
Ariz. R. Crim. P. 31.24

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION ONE



STATE OF ARIZONA, ) No. 1 CA-CR 10-0237  
)  
Appellee, ) DEPARTMENT B  
)  
v. ) **MEMORANDUM DECISION**  
) (Not for Publication -  
JOHN LLOYD CORDOVA, ) Rule 111, Rules of the  
) Arizona Supreme Court)  
Appellant. )  
)  
\_\_\_\_\_ )

Appeal from the Superior Court in Mohave County

Cause No. CR2008-0766

The Honorable Steven F. Conn, 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

Carlene H. Lacey, Mohave County Public Defender Kingman  
By Jill L. Evans, Appellate Defender  
Attorneys for Appellant

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**B R O W N**, Judge

¶1 John Lloyd Cordova appeals the trial court's order  
revoking his probation and the resulting disposition. Counsel

for Cordova 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). Finding no arguable issues to raise, counsel requests that this court search the record for fundamental error. Cordova was granted the opportunity to file a supplemental brief *in propria persona*, but he has not done so.

¶12 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). Finding none, we affirm.

¶13 In June 2009, a jury found Cordova guilty of one count of aggravated driving with a blood alcohol content of .08% or more as a third offense within the preceding eighty-four months ("Count 1"), and one count of aggravated driving while under the influence of intoxicating liquor as a third offense within the preceding eighty-four months ("Count 2"), both nondangerous, nonrepetitive class four felonies. In August 2009, the trial court suspended the imposition of sentence and placed Cordova on probation for five years. As a condition of probation, the court ordered incarceration for four months. Pursuant to term seventeen of his probation conditions, Cordova was ordered not to consume any alcoholic substances.

¶14 In November 2009, a probation officer petitioned to revoke Cordova's probation, alleging a violation of term seventeen. At the violation hearing, the probation officer

testified that she met with Cordova the day after he was released from his four-month prison sentence. During the course of the meeting, she became suspicious because Cordova was being uncooperative and smelled of alcohol. She then requested that another officer perform a breath test with a handheld device, which indicated the presence of alcohol in Cordova's blood. Cordova admitted he "[had] been drinking" and that he drank a bottle of "blush" the previous evening.

¶15 The court found that the State had proven by a preponderance of the evidence that Cordova violated term seventeen because he consumed alcohol. The court sentenced Cordova to a mitigated, concurrent prison term of 1.5 years for both Counts 1 and 2. He was credited with 229 days of presentence incarceration credit for both counts.<sup>1</sup> The court also ordered a two-month term of community supervision, to be served consecutively with the prison term. Cordova then filed a timely notice of appeal.

¶16 We have reviewed the entire record for reversible error and find none. All of the proceedings were conducted in

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<sup>1</sup> The record reveals that the trial court erred in calculating Cordova's presentence incarceration credit. At most, Cordova should have received 227 days, rather than 229 days. However, the State did not challenge the calculation by filing a cross-appeal and thus we cannot correct it. See *State v. Dawson*, 164 Ariz. 278, 286, 792 P.2d 741, 749 (1990) (recognizing that absent a timely cross-appeal, appellate courts cannot correct an illegally lenient sentence that favors an appellant).

accordance with the Arizona Rules of Criminal Procedure. The record shows Cordova was present and represented by counsel at all pertinent stages of the proceedings, was afforded the opportunity to speak at the disposition hearing, and the sentence imposed was within statutory limits. Accordingly, we affirm the trial court's judgment finding that Cordova violated his probation and we affirm the resulting disposition.

¶7 Upon the filing of this decision, counsel shall inform Cordova of the status of the appeal and his options. Defense counsel has no further obligations unless, upon review, counsel finds 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). Cordova shall have thirty days from the date of this decision to proceed, if he so desires, with a *pro per* motion for reconsideration or petition for review.

/s/

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MICHAEL J. BROWN, Judge

CONCURRING:

/s/

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DIANE M. JOHNSEN, Presiding Judge

/s/

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JOHN C. GEMMILL, Judge