

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



DIVISION ONE
FILED: 01/12/2012
RUTH A. WILLINGHAM,
CLERK
BY: DLL

STATE OF ARIZONA,) No. 1 CA-CR 10-0941
) 1 CA-CR 10-0943
Appellee,) (consolidated)
)
) DEPARTMENT B
)
v.) **MEMORANDUM DECISION**
) (Not for Publication -
DARRYL LAMONT WHITE,) Rule 111, Rules of the
) Arizona Supreme Court)
)
Appellant.)
_____)

Appeal from the Superior Court in Maricopa County
Cause No. CR2009-130989-001 SE
Cause No. CR2009-137896-001 DT
The Honorable Arthur T. Anderson, Judge

AFFIRMED

Thomas C. Horne, Arizona Attorney General Phoenix
By Kent E. Cattani, Chief Counsel
Criminal Appeals/Capital Litigation Section
Attorneys for Appellee

James J. Haas, Maricopa County Public Defender Phoenix
By Cory Engle, Deputy Public Defender
Attorney for Appellant

D O W N I E, Judge

¶1 Darryl Lamont White timely appeals from the superior court's determination that he violated his terms of probation and the ensuing disposition of the probation violations.¹ Pursuant to *Anders v. California*, 386 U.S. 738 (1967), and *State v. Leon*, 104 Ariz. 297, 451 P.2d 878 (1969), defense counsel has searched the record, found no arguable question of law, and asked that we review the record for fundamental error. See *State v. Richardson*, 175 Ariz. 336, 339, 857 P.2d 388, 391 (App. 1993). White did not file a supplemental brief *in propria persona*.

FACTS AND PROCEDURAL HISTORY

¶2 In July 2009, White pled guilty to possession of drug paraphernalia ("count 1") and criminal trespass in the first degree ("count 2"), both class 6 felonies. He was sentenced to two years' probation on both counts, to run concurrently.

¶3 The State petitioned to revoke White's probation in February 2010. It alleged that White had committed new criminal offenses and had failed to comply with several other terms of probation. The court set a probation revocation hearing. It later consolidated that hearing with White's trial on the new

¹ On the court's own motion, CA-CR 10-0941 and CA-CR 10-0943, both of which are *Anders* appeals stemming from the probation violations, were previously ordered consolidated.

offenses. A jury found White guilty of shoplifting and organized retail theft.

¶14 As defense counsel acknowledges, the guilty verdicts on the new charges meant that White "was in automatic violation of his probation." The court thereafter held a hearing at which the State submitted certified copies of the sentencing minute entries relating to counts 1 and 2. A fingerprint analyst testified that White's fingerprint matched the fingerprint on the minute entry for count 1. The analyst could not confirm that the fingerprint on the minute entry regarding count 2 was White's because multiple photocopies had reduced its quality, and it lacked sufficient clarity for a comparison. White's probation officer testified that White was on probation for both counts 1 and 2 when he committed the new criminal offenses.

¶15 The court found that White's name and date of birth appeared on the minute entry for count 2; sentencing for counts 1 and 2, occurred on the same day before the same judge; and the sentences for counts 1 and 2 were ordered to run concurrently. The court concluded White was the person convicted of counts 1 and 2, and terminated his probation. It sentenced him to time served.

DISCUSSION

¶16 We have read and considered the briefs submitted by White's counsel and have reviewed the entire record. *Leon*, 104

Ariz. at 300, 451 P.2d at 881. We find no fundamental error. All of the proceedings were conducted in compliance with the Arizona Rules of Criminal Procedure. White was present at all critical phases of the proceedings and was represented by counsel. The court had a factual and legal basis for concluding White was the individual placed on probation for counts 1 and 2, and that he had violated the terms of probation imposed for those counts. The court did not err by terminating White's probation and sentencing him to time served for the probation violations.

CONCLUSION

¶7 We affirm the judgment of the superior court. Counsel's obligations pertaining to White's representation in this appeal have ended. Counsel need do nothing more than inform White 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. *State v. Shattuck*, 140 Ariz. 582, 584-85, 684 P.2d 154, 156-57 (1984). On the court's own motion, White shall have 30 days from the date of this decision to proceed, if he desires, with

an *in propria persona* motion for reconsideration or petition for review.

/s/

MARGARET H. DOWNIE,
Presiding Judge

CONCURRING:

/s/

PETER B. SWANN, Judge

/s/

DONN KESSLER, Judge