

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: 01/24/2012
RUTH A. WILLINGHAM,
CLERK
BY: DLL

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

STATE OF ARIZONA,) No. 1 CA-CR 11-0012
)
Appellee,) DEPARTMENT E
)
v.) MEMORANDUM DECISION
)
JOHN PATRICK CAMBRA,) (Not for Publication -
) Rule 111, Rules of the
Appellant.) Arizona Supreme Court)
)

Appeal from the Superior Court in Maricopa County

Cause No. CR2009-007688-001 DT

The Honorable Daniel G. Martin, Judge

CONVICTIONS AND SENTENCES AFFIRMED

Thomas C. Horne, 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 Stephen R. Collins, Deputy Public Defender
Attorneys for Appellant

J O H N S E N, Judge

¶1 This appeal was timely filed in accordance with *Anders v. California*, 386 U.S. 738 (1967), and *State v. Leon*, 104 Ariz.

297, 451 P.2d 878 (1969), following John Patrick Cambra's conviction of fraudulent schemes and artifices and theft, both Class 2 felonies. Cambra's counsel has searched the record on appeal and found no arguable question of law that is not frivolous. See *Smith v. Robbins*, 528 U.S. 259 (2000); *Anders*, 386 U.S. 738; *State v. Clark*, 196 Ariz. 530, 2 P.3d 89 (App. 1999). Cambra was given the opportunity to file a supplemental brief but did not do so. Counsel now asks this court to search the record for fundamental error. After reviewing the entire record, we affirm Cambra's convictions and sentences.

FACTS AND PROCEDURAL HISTORY

¶2 As director of construction at his company, Cambra was charged with hiring another company to conduct certain property surveys.¹ He hired an entity called ABSI to conduct the surveys and used his employer's funds to pay ABSI a total of \$147,750 for the surveys. Unbeknownst to his employer, Cambra was a part owner of ASBI. When his employer learned of the connection, it demanded Cambra produce copies of the surveys ASBI ostensibly performed, but he was unable to do so. Cambra eventually provided copies of the surveys, but they were inadequate because they were undated, unsigned, largely boilerplate and contained

¹ Upon review, we view the facts in the light most favorable to sustaining the jury's verdicts and resolve all inferences against Cambra. *State v. Fontes*, 195 Ariz. 229, 230, ¶ 2, 986 P.2d 897, 898 (App. 1998).

no specific information about the individual properties. Meanwhile, the money paid to ASBI had been used to buy plane tickets, ATVs, guns, electronics and food. When police confronted Cambra, he maintained he had paid a man named Martin Frisk cash to conduct the surveys, that a computer problem prevented him from retrieving the surveys sooner and that any money taken from the ASBI account had been used for business purposes.

¶13 After a jury convicted Cambra of fraudulent schemes and artifices, a Class 2 felony, and theft, a Class 2 felony, the court imposed a mitigated sentence of four years' incarceration for each count, to be served concurrently.

¶14 Cambra timely appealed. 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), 13-4031 and -4033 (2012).

DISCUSSION

¶15 The record reflects Cambra received a fair trial. He was represented by counsel at all stages of the proceedings against him and was present at all critical stages. The court held appropriate pretrial hearings. Although a voluntariness hearing was neither requested nor conducted, the record contains no suggestion that the court committed fundamental error by admitting Cambra's statements to police. See *State v. Smith*,

114 Ariz. 415, 419, 561 P.2d 739, 743 (1977); *State v. Finn*, 111 Ariz. 271, 275, 528 P.2d 615, 619 (1974).

¶16 The State presented both direct and circumstantial evidence sufficient to allow the jury to convict. At Cambra's request, his counsel suggested this court consider the sufficiency of the evidence to support the convictions. This court will not reverse a conviction for insufficiency of the evidence "unless there is no substantial evidence to support the jury's verdict." *State v. Scott*, 187 Ariz. 474, 477, 930 P.2d 551, 554 (App. 1996). Based on the evidence in the record, the jury reasonably could conclude that Cambra fabricated the property surveys, that no services actually were provided for the \$147,750 that his employer paid for the surveys, and that he received the benefit of those payments.

¶17 The jury was properly comprised of eight members with two alternates. The court properly instructed the jury on the elements of the charges, the State's burden of proof and the necessity of a unanimous verdict. The jury returned a unanimous verdict, which was confirmed by juror polling. The court received and considered a presentence report, addressed its contents during the sentencing hearing and imposed legal sentences for the crimes of which Cambra was convicted.

CONCLUSION

¶18 We have reviewed the entire record for reversible error and find none. See *Leon*, 104 Ariz. at 300, 451 P.2d at 881.

¶19 After the filing of this decision, defense counsel's obligations pertaining to Cambra's representation in this appeal have ended. Defense counsel need do no more than inform Cambra of the outcome of this appeal and his future options, 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). On the court's own motion, Cambra has 30 days from the date of this decision to proceed, if he wishes, with a *pro per* motion for reconsideration. Cambra has 30 days from the date of this decision to proceed, if he wishes, with a *pro per* petition for review.

/s/

DIANE M. JOHNSEN, Presiding Judge

CONCURRING:

/s/

PATRICIA A. OROZCO, Judge

/s/

LAWRENCE F. WINTHROP, Judge