

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: 02/21/2012
RUTH A. WILLINGHAM,
CLERK
BY: DLL

STATE OF ARIZONA,) 1 CA-CR 11-0091
)
Appellee,) DEPARTMENT C
)
v.) **MEMORANDUM DECISION**
) (Not for Publication - Rule
WILLIE C. HUGGINS,) 111, Rules of the Arizona
) Supreme Court)
Appellant.)
)

Appeal from the Superior Court in Maricopa County

Cause No. CR 2009-141705-001 DT

The Honorable Shellie F. Smith, Commissioner

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 Joel M. Glynn, Deputy Public Defender
Attorneys for Appellant

N O R R I S, Judge

¶1 Willie Huggins timely appeals from his conviction and sentence for burglary in the third degree. After searching the record on appeal and finding no arguable question of law that

was not frivolous, Huggins' counsel filed a brief in accordance with *Anders v. California*, 386 U.S. 738, 87 S. Ct. 1396, 18 L. Ed. 2d 493 (1967), and *State v. Leon*, 104 Ariz. 297, 451 P.2d 878 (1969), asking this court to search the record for fundamental error. This court granted counsel's motion to allow Huggins to file a supplemental brief *in propria persona*, but Huggins did not do so. After reviewing the entire record, we find no fundamental error and, therefore, affirm Huggins' conviction and sentence.

FACTS AND PROCEDURAL BACKGROUND¹

¶12 On November 15, 2005, a volunteer at a Phoenix church discovered several damaged doors and a broken window. She called the police, and they found fresh blood stains near the broken window and "a blood trail from the broken window that led into the kitchen." The police found a blood-stained napkin in the kitchen, and impounded it as evidence. The church's pastor informed police a CD player was missing from his office, and the police believed the church had been burglarized by somebody who had entered through the window.

¹We view the facts in the light most favorable to sustaining the jury's verdict and resolve all reasonable inferences against Huggins. *State v. Guerra*, 161 Ariz. 289, 293, 778 P.2d 1185, 1189 (1989).

¶13 The police later compared DNA from the blood-stained napkin to DNA profiles in a computer database and matched Huggins' DNA profile. Police then used a buccal swab to collect a sample of Huggins' DNA, which forensic DNA analysts matched to the DNA found on the blood-stained napkin.

¶14 The State, by information, charged Huggins with burglary in the third degree, a class 4 felony. The superior court initially found Huggins, who was already in custody for an earlier offense, was not competent to stand trial, but also found there was "a substantial probability that [Huggins would] regain competency within the foreseeable future." After holding two evidentiary hearings on Huggins' competency, and reviewing the reports of medical experts who had evaluated him, the superior court eventually found Huggins competent to stand trial. After a trial that focused on the DNA evidence implicating Huggins, a jury found him guilty of burglary in the third degree. The superior court sentenced Huggins, who had at least two historical prior convictions, to a mitigated prison term of eight years, with 549 days of presentence incarceration credit.

DISCUSSION

¶15 We have reviewed the entire record for reversible error and find none. See *Leon*, 104 Ariz. at 300, 451 P.2d at 881. Huggins received a fair trial. He was represented by

counsel at all stages of the proceedings and was present at all critical stages.

¶16 The evidence presented at trial was substantial and supports the verdict. The jury was properly comprised of eight members and the court properly instructed the jury on the elements of the charge, Huggins' presumption of innocence, the State's burden of proof, and the necessity of a unanimous verdict. The superior court received and considered a presentence report, Huggins was given an opportunity to speak at sentencing, and his sentence was within the range of acceptable sentences for his offense.

CONCLUSION

¶17 We decline to order briefing and affirm Huggins' conviction and sentence.

¶18 After the filing of this decision, defense counsel's obligations pertaining to Huggins' representation in this appeal have ended. Defense counsel need do no more than inform Huggins 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. *State v. Shattuck*, 140 Ariz. 582, 584-85, 684 P.2d 154, 156-57 (1984).

¶19 Huggins has 30 days from the date of this decision to proceed, if he wishes, with an *in propria persona* petition for review. On the court's own motion, we also grant Huggins 30

days from the date of this decision to file an *in propria persona* motion for reconsideration.

 /s/
PATRICIA K. NORRIS, Judge

CONCURRING:

 /s/
MICHAEL J. BROWN, Presiding Judge

 /s/
PHILIP HALL, Judge