

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: 03/15/2012  
RUTH A. WILLINGHAM,  
CLERK  
BY: DLL

STATE OF ARIZONA, ) 1 CA-CR 11-0345  
)  
Appellee, ) DEPARTMENT C  
)  
v. ) **MEMORANDUM DECISION**  
) (Not for Publication -  
MANDELL ADRIAN MADISON, ) Rule 111, Rules of the  
) Arizona Supreme Court)  
Appellant. )  
)

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Appeal from the Superior Court in Maricopa County

Cause No. CR2010-006790-001 DT

The Honorable Julie P. Newell, Judge *Pro Tem*

**AFFIRMED AS MODIFIED**

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

Bruce Peterson, Legal Advocate Phoenix  
By Kerri L. Chamberlin, Deputy Legal Advocate  
Attorneys for Appellant

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W I N T H R O P, Chief Judge

¶1 Mandell Adrian Madison ("Appellant") appeals his  
conviction and sentence for resisting arrest, a class six

felony, in violation of Arizona Revised Statutes ("A.R.S.") section 13-2508 (West 2012).<sup>1</sup> Appellant's counsel has filed a brief in accordance with *Smith v. Robbins*, 528 U.S. 259 (2000); *Anders v. California*, 386 U.S. 738 (1967); and *State v. Leon*, 104 Ariz. 297, 451 P.2d 878 (1969), stating that she has searched the record on appeal and found no arguable question of law that is not frivolous. Appellant's counsel therefore requests that we review the record for fundamental error. See *State v. Clark*, 196 Ariz. 530, 537, ¶ 30, 2 P.3d 89, 96 (App. 1999) (stating that this court reviews the entire record for reversible error). Although this court granted Appellant the opportunity to file a supplemental brief *in propria persona*, he has not done so.

¶2 We have appellate jurisdiction pursuant to the Arizona Constitution, Article 6, Section 9, and A.R.S. §§ 12-120.21(A)(1), 13-4031, and 13-4033(A). Finding no reversible error, we affirm Appellant's conviction and sentence, as modified to reflect credit for six additional days of presentence incarceration.

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<sup>1</sup> We cite the current Westlaw version of the applicable statutes throughout this decision because no revisions material to our decision have since occurred.

## I. FACTS AND PROCEDURAL HISTORY<sup>2</sup>

¶3 On April 21, 2010, a grand jury issued an indictment, charging Appellant with two counts: pandering and resisting arrest. The State later alleged that Appellant had four historical prior felony convictions. The pandering count was dismissed on the State's motion before trial.

¶4 Appellant did not appear for trial, and trial was conducted *in absentia*. At trial, the parties stipulated that, on April 13, 2010, "officers from the Phoenix Police Department . . . were attempting to make a lawful arrest of [Appellant]."

¶5 The State also presented the following evidence: In the early afternoon of April 13, 2010, a police detective observed Appellant enter an apartment. The detective and several other officers, all wearing marked police uniforms, approached the apartment, and the detective knocked on the door. Appellant opened the door, saw the uniformed officers, and slammed the door shut. The detective shouted through the door that Appellant was under arrest, but Appellant ran to the back of the apartment and jumped out of a second story window.

¶6 Appellant landed on the ground and rolled forward to his back. Two uniformed officers, who had been standing near

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<sup>2</sup> We review the facts in the light most favorable to sustaining the verdict and resolve all reasonable inferences against Appellant. See *State v. Kiper*, 181 Ariz. 62, 64, 887 P.2d 592, 594 (App. 1994).

the rear of the apartment building, ran toward Appellant while shouting that he was under arrest. Appellant stood up, ran toward the officers, and attempted to evade them, but they tackled him to the ground. The officers advised Appellant that he was under arrest and ordered him to put his hands behind his back. Appellant refused to comply and attempted to push himself up. The two officers tried to pull Appellant's hands behind his back, but Appellant continued to struggle, so one of the officers struck Appellant in the calf and back with a baton. The strikes proved ineffective, and Appellant continued to struggle with the officers. A third officer arrived and assisted before Appellant could finally be handcuffed. Even after he was handcuffed, Appellant continued to flail and kick at the officers.

¶7 The jury found Appellant guilty of resisting arrest as charged. Based on Appellant's admissions at sentencing, the trial court found that Appellant had two historical prior felony convictions. The court sentenced Appellant to a slightly mitigated term of 3.5 years' incarceration in the Arizona Department of Corrections and credited him for seventy days of presentence incarceration.<sup>3</sup> Appellant filed a timely notice of appeal.

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<sup>3</sup> The record reflects that Appellant was booked into custody on April 13, 2010, and was released on April 18, 2010, after

## II. ANALYSIS

¶8 We have reviewed the entire record for reversible error and find none. See *Leon*, 104 Ariz. at 300, 451 P.2d at 881; *Clark*, 196 Ariz. at 537, ¶ 30, 2 P.3d at 96. The evidence presented at trial was substantial and supports the verdict, and the sentence was within the statutory limits. Appellant was represented by counsel at all stages of the proceedings and was given the opportunity to speak at sentencing. The proceedings were conducted in compliance with his constitutional and statutory rights and the Arizona Rules of Criminal Procedure.

¶9 After filing of this decision, defense counsel's obligations pertaining to Appellant's representation in this appeal have ended. Counsel need do no more than inform Appellant of the status of the appeal and of his future options, unless counsel's review reveals an issue appropriate for petition for review to the Arizona Supreme Court. See *State v. Shattuck*, 140 Ariz. 582, 584-85, 684 P.2d 154, 156-57 (1984). Appellant has thirty days from the date of this decision to

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bond was posted for his release. On March 3, 2011, he was again booked into custody, where he remained until he was sentenced on May 12, 2011. Thus, Appellant was incarcerated for seventy-six days before sentencing, and he should be credited for six additional days of presentence incarceration. When we find a miscalculation in credit, we may correct the error by modifying the sentence without remanding to the trial court. See *State v. Stevens*, 173 Ariz. 494, 496, 844 P.2d 661, 663 (App. 1992). Accordingly, we modify Appellant's sentence to reflect six additional days of presentence incarceration credit.

proceed, if he desires, with a *pro per* motion for reconsideration or petition for review.

### III. CONCLUSION

¶10 Appellant's conviction and sentence are affirmed, as modified to reflect credit for six additional days of presentence incarceration.

\_\_\_\_\_/s/\_\_\_\_\_  
LAWRENCE F. WINTHROP, Chief Judge

CONCURRING:

\_\_\_\_\_/s/\_\_\_\_\_  
PATRICIA K. NORRIS, Presiding Judge

\_\_\_\_\_/s/\_\_\_\_\_  
MARGARET H. DOWNIE, Judge