

**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: 04/03/2012
RUTH A. WILLINGHAM,
CLERK
BY: sls

**IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE**

STATE OF ARIZONA,) 1 CA-CR 11-0610
)
Appellee,) Department D
)
v.) **MEMORANDUM DECISION**
) (Not for Publication-
RUSSELL ROBERT NAST, JR.,) Rule 111, Rules of the
) Arizona Supreme Court)
Appellant.)
)
)
_____)

Appeal from the Superior Court of Maricopa County

Cause No. CR2010-168284-001DT

Stephen P. Lynch, Commissioner

AFFIRMED

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

James J. Haas, Maricopa County Public Defender Phoenix
By Terry J. Adams, Deputy Public Defender
Attorneys for Appellant

T H O M P S O N, Judge

¶1 This case comes to us as an appeal under *Anders v. California*, 386 U.S. 738 (1967), and *State v. Leon*, 104 Ariz. 297, 451 P.2d 878 (1969). Counsel for Russell Robert Nast, Jr.

(defendant) has advised us that, after searching the entire record, he has been unable to discover any arguable questions of law and has filed a brief requesting this court conduct an *Anders* review of the record. Defendant has been afforded an opportunity to file a supplemental brief *in propria persona*, and he has not done so.

¶2 Defendant, an adult over the age of eighteen, was charged with aggravated assault on a minor, a class 6 felony after he was accused of repeatedly rubbing victim's leg above her knee while driving the victim and her friend to Walmart. Victim was thirteen at the time and had stayed the night at her friend's house, where defendant resided. The rubbing scared victim and she called her parents immediately after getting into the Walmart. Victim's twelve-year old friend witnessed the rubbing and during the incident received texts from victim about how scared she was. Victim testified that the prior evening defendant made her uncomfortable by talking about sex. When victim's parents arrived at Walmart, victim was crying; victim's mother made an immediate report to a police officer located in the parking lot.

¶3 Defendant knowingly, voluntarily and intelligently waived his right to a jury trial in order to have the charge dropped to a class one misdemeanor. Defendant testified at trial that the truck he had taken the girls to Walmart in had a

small bench seat and he may have touched victim's knee while shifting gears. Defendant was convicted and he received a suspended sentence with one year of intensive supervised probation. He was sentenced to forty-eight days in jail with credit for time served. Defendant timely appealed.

¶3 We have read and considered counsel's brief and have searched the entire record for reversible error. See *Leon*, 104 Ariz. at 300, 451 P.2d at 881. We find none. All of the proceedings were conducted in compliance with the Arizona Rules of Criminal Procedure, and the sentence imposed was within the statutory limits. Pursuant to *State v. Shattuck*, 140 Ariz. 582, 584-85, 684 P.2d 154, 156-57 (1984), defendant's counsel's obligations in this appeal are at an end.

¶4 We affirm the conviction and sentence.

/s/

JON W. THOMPSON, Judge

CONCURRING:

/s/

PETER B. SWANN, Presiding Judge

/s/

MICHAEL J. BROWN, Judge