

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

FILED BY CLERK

JUL 27 2012

COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

THE STATE OF ARIZONA,)	2 CA-CR 2012-0024
)	DEPARTMENT A
)	
Appellee,)	
)	<u>MEMORANDUM DECISION</u>
v.)	Not for Publication
)	Rule 111, Rules of
MARQUIS JAMES HALL,)	the Supreme Court
)	
)	
Appellant.)	
_____)	

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR20100390001

Honorable Jane L. Eikleberry, Judge

AFFIRMED

Lori J. Lefferts, Pima County Public Defender
By Kristine Maish

Tucson
Attorneys for Appellant

E C K E R S T R O M, Presiding Judge.

¶1 Appellant Marquis Hall was convicted after a jury trial of possession of marijuana, possession of drug paraphernalia, and fleeing a law enforcement vehicle. The trial court sentenced him to enhanced, presumptive, concurrent and consecutive prison terms totaling 8.75 years' imprisonment. Counsel has filed a brief in compliance with *Anders v. California*, 386 U.S. 738 (1967), and *State v. Clark*, 196 Ariz. 530, 2 P.3d 89 (App. 1999), stating she “has reviewed the entire record and has been unable to find any arguably meritorious issue to raise on appeal” and asking this court to search the record for error. Counsel nonetheless identifies as an “arguably meritorious issue” whether the evidence was sufficient to support Hall’s conviction for fleeing a law enforcement vehicle. Hall has not filed a supplemental brief.

¶2 We view the evidence in the light most favorable to sustaining the verdict. *State v. Tamplin*, 195 Ariz. 246, ¶ 2, 986 P.2d 914, 914 (App. 1999). The evidence at trial showed that, in January 2010, a police officer in a marked police vehicle “initiate[d] a traffic stop” on an automobile Hall was driving by activating his vehicle’s emergency lights and siren. Rather than immediately stopping, Hall made a left turn onto another street, “sped up for a little bit,” turned left into a residential driveway, struck another car parked in a carport and then crashed into a retaining wall and light pole. Hall threw items from the vehicle and fled on foot. After Hall was arrested, he admitted that a small baggie of marijuana found near the automobile belonged to him.

¶3 Counsel suggests that the evidence may have been insufficient to support Hall’s conviction of fleeing a law enforcement vehicle because it was not “unusual” that

Hall sped up after making a left turn, Hall had not exceeded the speed limit or “disregard[ed] stop or traffic signs,” and Hall stopped after a short distance.

¶4 Section 28-622.01, A.R.S., provides that:

A driver of a motor vehicle who wilfully flees or attempts to elude a pursuing official law enforcement vehicle that is being operated in the manner described in [A.R.S.] § 28-624, subsection C is guilty of a class 5 felony. The law enforcement vehicle shall be appropriately marked to show that it is an official law enforcement vehicle.

As counsel acknowledges, a defendant need not flee at “excessive speeds or . . . [engage in] reckless driving” to commit that crime. *State v. Fogarty*, 178 Ariz. 170, 171, 871 P.2d 717, 718 (App. 1993). Instead, “any refusal to stop on command of an officer who is in a police car violates the felony flight statute.” *Id.* (emphasis removed). The evidence shows that Hall sped up only after the officer activated his emergency lights and sirens. And, particularly in light of the fact that Hall fled on foot after crashing his vehicle, the jury could conclude he wilfully was attempting to elude the law enforcement vehicle by speeding up and turning left into a residential driveway, and the only reason he did not exit the driveway and continue his flight in his vehicle was because he had hit the retaining wall.

¶5 We conclude the evidence adequately supported Hall’s convictions. *See* A.R.S. §§ 13-3405(A)(1); 13-3415(A); 28-622.01. And his sentences were within the prescribed statutory range and were imposed lawfully. *See* A.R.S. §§ 13-703(C), (J); 13-3405(B)(1); 13-3415(A); 28-622.01. Pursuant to our obligation under *Anders*, we have searched the record for fundamental, reversible error and have found none. *See State v.*

Fuller, 143 Ariz. 571, 573, 575, 694 P.2d 1185, 1187, 1189 (1985) (*Anders* requires court to search record for fundamental error). Therefore, we affirm Hall's convictions and sentences.

/s/ Peter J. Eckerstrom
PETER J. ECKERSTROM, Presiding Judge

CONCURRING:

/s/ Joseph W. Howard
JOSEPH W. HOWARD, Chief Judge

/s/ J. William Brammer, Jr.
J. WILLIAM BRAMMER, JR., Judge