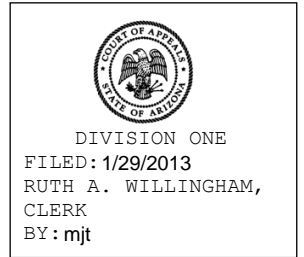


NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED
EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);
Ariz. R. Crim. P. 31.24

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE



STATE OF ARIZONA,) 1 CA-CR 12-0172
)
Appellee,) DEPARTMENT C
)
v.) **MEMORANDUM DECISION**
) (Not for Publication -
) Rule 111, Rules of the
SAMUEL ALEXANDER HALL, III,) Arizona Supreme Court)
)
Appellant.)
)

Appeal from the Superior Court in Maricopa County

Cause No. CR2011-125877-001

The Honorable Christine E. Mulleneaux, Judge *Pro Tempore*

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 Joel M. Glynn, Deputy Public Defender
Attorneys for Appellant

T H U M M A, Judge

¶1 This is an appeal under *Anders v. California*, 386 U.S.

738 (1967), and *State v. Leon*, 104 Ariz. 297, 451 P.2d 878

(1969), following Samuel Hall's conviction and sentence for one count of resisting arrest, a Class 6 undesignated felony. Hall's counsel advised this court that, after a diligent search of the entire record, he found no arguable question of law and asked this court to review the record for fundamental error. Hall was given the opportunity to file a supplemental brief but has not done so. After reviewing the entire record, Hall's conviction and sentence are affirmed.

FACTS AND PROCEDURAL HISTORY¹

¶2 On May 20, 2011, Hall attended a birthday party with several friends at a restaurant in Tempe. The group began drinking, became loud and eventually was asked by management to leave the restaurant. Hall failed to pay his bill before leaving the restaurant. A restaurant employee called the police for assistance.

¶3 Officer Carpenter arrived on scene and spoke with Hall outside the restaurant. Hall appeared "irritated and agitated that he had been put out of the restaurant." Officer Carpenter explained to Hall that he needed to pay his tab; Hall said that he would pay, but made no effort to do so. Officer Jurjevich arrived and started to walk towards the restaurant to speak to

¹ This court considers the facts in the light most favorable to sustaining the jury's verdict and resolves all inferences against Hall. *State v. Fontes*, 195 Ariz. 229, 230, ¶ 2, 986 P.2d 897, 898 (App. 1998).

an employee. At that point, Hall stated that he would only pay his tab if he received one more shot of alcohol.

¶14 Officer Jurjevich then told Hall that if he did not pay his tab, Hall "would go to jail for theft." Hall laughed sarcastically. Officer Jurjevich then asked Hall for identification; Hall refused. Officer Jurjevich then attempted to take Hall's arm and told Hall to put his hands behind his back in an effort to place Hall under arrest. Officer Carpenter simultaneously moved to take Hall's other arm to accomplish the arrest.

¶15 Hall struggled against the officers and put Officer Jurjevich in a choke hold, hitting Officer Jurjevich in the face. Hall and Officer Jurjevich fell to the ground. Officers Jurjevich and Carpenter subdued Hall by tasing him and placing him in restraints.

¶16 The State charged Hall with one count of aggravated assault against Officer Jurjevich and one count of resisting arrest. Officers Jurjevich and Carpenter, two restaurant employees, Hall and Hall's friend testified at trial. The jury found Hall guilty of resisting arrest, but acquitted him of aggravated assault. Hall was sentenced to three years' probation and the felony remains undesignated.

¶17 Hall timely appealed. This court has jurisdiction pursuant to Article 6, Section 9, of the Arizona Constitution,

and Arizona Revised Statutes sections 12-120.21(A)(1), 13-4031 and -4033.²

DISCUSSION

¶8 Counsel for Hall advised this court that after a diligent search of the entire record, he found no arguable question of law. This court reviews Hall's conviction and sentence for fundamental error, an error that is clear and egregious. *State v. Gendron*, 168 Ariz. 153, 155, 812 P.2d 626, 628 (1991). A review of counsel's brief and a full review of the record reveals no reversible error. See *Leon*, 104 Ariz. at 300, 451 P.2d at 881. The proceedings appear to have been conducted in compliance with the Arizona Rules of Criminal Procedure, Hall was present and represented by counsel at all stages of the proceedings and the sentence imposed was within the statutory limits. Given the testimony of Officers Carpenter and Jurjevich, substantial evidence supports Hall's conviction for resisting arrest. See *State v. Davolt*, 207 Ariz. 191, 212, ¶ 87, 84 P.3d 456, 477 (2004) (substantial evidence exists when reasonable jurors could find evidence "sufficient to support a guilty verdict beyond a reasonable doubt"). Hall's conviction and resulting sentence are therefore affirmed.

² Absent material revision after the relevant dates, statutes cited refer to the current version unless otherwise indicated.

¶9 Upon the filing of this decision, defense counsel is directed to inform Hall of the status of his appeal and of his future options. Defense counsel has no further obligations 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). Hall shall have thirty days from the date of this decision to proceed, if he desires, with a *pro se* motion for reconsideration or petition for review.

CONCLUSION

¶10 Hall's conviction and sentence are affirmed.

/s/_____
SAMUEL A. THUMMA, Judge

CONCURRING:

/s/_____
PHILIP HALL, Presiding Judge

/s/_____
PETER B. SWANN, Judge