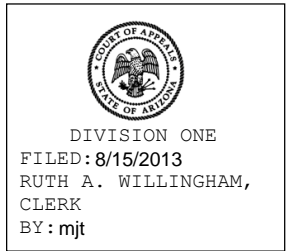


NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES. See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION ONE



STATE OF ARIZONA, ) 1 CA-CR 12-0635  
)  
Appellee, ) DEPARTMENT D  
)  
v. ) **MEMORANDUM DECISION**  
) (Not for Publication -  
DONALD GLEN BRANSON, ) Rule 111, Rules of the  
) Arizona Supreme Court)  
Appellant. )  
)  
)

Appeal from the Superior Court in Mohave County

Cause No. S8015CR201101061

The Honorable Derek C. Carlisle, Judge

**AFFIRMED**

Thomas C. Horne, Attorney General Phoenix  
By Joseph T. Maziarz, Chief Counsel  
Criminal Appeals/Capital Litigation Section  
Attorneys for Appellee

Jill L. Evans, Mohave County Appellate Defender Kingman  
Attorneys for Appellant

**G O U L D**, Judge

¶1 Donald Branson ("Branson") appeals from his conviction and sentence for burglary in the third degree, a class four felony; and possession of burglary tools, a class six

felony. Branson was sentenced on September 28, 2012 and filed a notice of appeal on the same day. Branson's counsel filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967), and *State v. Leon*, 104 Ariz. 297, 451 P.2d 878 (1969), advising this Court that after a search of the entire appellate record, no arguable ground exists for reversal. Branson was granted leave to file a supplemental brief *in propria persona* on or before July 1, 2013, and did not do so.

¶2 Our obligation in this appeal is to review "the entire record for reversible error." *State v. Clark*, 196 Ariz. 530, 537, ¶ 30, 2 P.3d 89, 96 (App. 1999). We have jurisdiction pursuant to Article 6, Section 9, of the Arizona Constitution and Arizona Revised Statutes ("A.R.S.") sections 12-120.21(A)(1), 13-4031 and 13-4033(A)(1) (West 2013).<sup>1</sup> Finding no reversible error, we affirm.

### ***Facts and Procedural History***<sup>2</sup>

¶3 On September 13, 2011 at about 6:30 A.M., the victim saw a man in a garage located across the street from his residence. The victim immediately called 911, and a Mohave

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<sup>1</sup> Unless otherwise specified, we cite to the current version of the applicable statutes because no revisions material to this decision have occurred.

<sup>2</sup> We view the evidence in the light most favorable to sustaining the convictions and resulting sentences. See *State v. Guerra*, 161 Ariz. 289, 293, 778 P.2d 1185, 1189 (1989).

County Sheriff's Deputy was dispatched. The victim knew, based on a prior burglary of the same garage, it would take at least fifteen to twenty minutes for a Sheriff's Deputy to arrive. As a result, the victim called a neighbor to assist him with trying to apprehend the man in his garage.

¶4 When the victim and his neighbor arrived at the garage, they noticed a small pickup truck with a small trailer parked off the road a short distance from the garage. The victim dropped off the neighbor at the pickup, and the neighbor disabled the vehicle by removing the wire from the ignition coil. The victim continued on to the garage, where he parked his vehicle to block the driveway.

¶5 The victim did not immediately enter the garage, but stayed outside watching the man, who was later identified as Branson. The victim yelled at Branson to stop and told him that the police were on the way. Branson took a step toward the victim as if he were going to confront him, while saying something about "gas." Branson then took off running. The victim yelled to alert his neighbor that Branson was running toward him. As Branson ran, the neighbor began yelling for him to stop, and after Branson did not stop, the neighbor fired the .357 he was carrying toward the ground as a warning shot. At this point, Branson stopped and got down into a pool of mud.

¶6 After some time on the ground, Branson complained about having to lie in the mud, and the neighbor allowed him to stand up, while still holding him at gunpoint. Branson then took off running once again. The victim, who was on the phone with 911 again, was then able to follow Branson as he ran through another piece of property, but eventually lost sight of him as he ran off through the desert. At about this time, the Sheriff's Deputy arrived.

¶7 After the Deputy arrived, he noted that Branson had left shoe prints as he ran from the scene. As a result, a Detective who was skilled in tracking was called to the scene. The detective followed the shoeprints to a trailer on a nearby property. Inside the trailer, which appeared to be uninhabited, Branson was located hiding underneath a chair. Deputies arrested Branson and found a pair of gloves and a flashlight on the ground where he was hiding. While being arrested, Branson made a statement that he was only trying to steal gas.

¶8 Branson was placed in the patrol car and transported back to the original scene. Without any further prompting, Branson volunteered that he was guilty only of stealing gas and trespassing on the property. After being read his *Miranda* rights and waiving them, Branson admitted to driving the truck to the victim's property and entering the garage "to get gas."

¶9 Following the interview with Branson, the Deputy returned to the garage with the victim. In the garage, there was a distinct odor of gasoline and a tractor that had gasoline dripping from it onto the floor. On the tractor, it was clear that the ignition switch had been tampered with and there were wires that had been crossed, e.g., as if to try to hotwire the tractor. Additionally, there was a hose, with the fuel filter in it, which was running from the fuel tank, above the engine, directly into the fuel feed on the carburetor, and the carburetor was dripping fuel. There were also shoe prints in the garage that matched Branson's. Also, a box had been moved out of the way of the tractor, a chest had been rummaged through, and a motorcycle helmet had been placed close to the tractor. Both the victim and the neighbor were able to identify Branson, in court, as the man that they had seen that day.

¶10 Branson was arrested on September 13, 2011. He was charged with burglary in the third degree, a class four felony; and possession of burglary tools, a class six felony.

¶11 Branson was present and represented by counsel throughout all stages of the case. A jury eventually found Branson guilty of both offenses. Both offenses were found to be aggravated by Branson's prior felony record

¶12 During a hearing on Branson's prior felony convictions, the Court found that Branson had five prior felony

convictions, with three of those being historical priors for sentencing purposes. Branson was given an opportunity to speak at sentencing.

¶13 The trial court sentenced Branson to an aggravated prison term of 12 years for count one and 4.5 years for count two, to be served concurrently, with credit for 153 days served.

#### ***Discussion***

¶14 We have read and considered the entire record and have found no meritorious grounds for reversal of Branson's conviction or for modification of the sentence imposed. *Clark*, 196 Ariz. at 541, ¶ 50, 2 P.3d at 100. Branson was present at all critical stages of the proceedings and was represented by counsel. All proceedings were conducted in compliance with the Arizona Rules of Criminal Procedure, and substantial evidence supported the finding of guilt. Accordingly, we affirm.

#### ***Conclusion***

¶15 Counsel's obligations pertaining to Branson's representation in this appeal have ended. Counsel need do nothing more than inform Branson of the status of the appeal and his future options, unless counsel's review reveals 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). Branson shall have thirty days from the date of this decision to proceed, if he so desires,

with an *in propria persona* motion for reconsideration or petition for review.<sup>3</sup>

/S/  
ANDREW W. GOULD, Presiding Judge

CONCURRING:

/S/  
MARGARET H. DOWNIE, Judge

/S/  
PATRICIA A. OROZCO, Judge

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<sup>3</sup> Pursuant to Arizona Rule of Criminal Procedure 31.18(b), Defendant or his counsel has fifteen days to file a motion for reconsideration. On the court's own motion, we extend the time to file such a motion to thirty days from the date of this decision.