

NOTICE: NOT FOR OFFICIAL PUBLICATION.
UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL
AND MAY BE CITED ONLY AS AUTHORIZED BY RULE.

IN THE
ARIZONA COURT OF APPEALS
DIVISION ONE

STATE OF ARIZONA, *Appellee*,

v.

DELONNE MATTHEW ESCOFFERY, *Appellant*.

No. 1 CA-CR 15-0368
FILED 3-15-2016

Appeal from the Superior Court in Maricopa County
No. CR2013-461828-001 SE
The Honorable Brian D. Kaiser, Judge *Pro Tempore*

CONVICTIONS AFFIRMED; SENTENCES AFFIRMED AS MODIFIED

COUNSEL

Arizona Attorney General's Office, Phoenix
By Joseph T. Maziarz
Counsel for Appellee

Maricopa County Public Defender's Office, Phoenix
By Louise A. Stark
Counsel for Appellant

STATE v. ESCOFFERY
Decision of the Court

MEMORANDUM DECISION

Chief Judge Michael J. Brown delivered the decision of the Court, in which Judge Kent E. Cattani and Judge Margaret H. Downie joined.

B R O W N, Chief Judge:

¶1 Delonne Matthew Escoffery was convicted of two counts of aggravated driving under the influence: Count 1, driving with a suspended license while impaired, and Count 2, driving with a suspended license and a blood alcohol concentration of 0.08 or greater. At sentencing, Escoffery admitted having two prior felony convictions, and the trial court imposed mitigated 8-year concurrent terms of imprisonment on each count. Although the transcript of the sentencing hearing reflects that the court imposed a fine and assessments as to Count 1, and expressly stated the “financial obligations as to Count 1” were “concurrent” as to Count 2, the signed sentencing minute entry indicates that the court separately imposed the same fine and assessments as to each count.

¶2 Escoffery argues that the imposition of a fine and assessments as to each count violates double jeopardy protections. The State confesses error, acknowledging that the minute entry conflicts with the trial court’s oral pronouncement and should be corrected. *See State v. Wheeler*, 108 Ariz. 338, 342 (1972) (“Where there is a conflict between the minute entry and the court’s oral pronouncement as determined from the reporter’s transcript . . . the reporter’s transcript governs over the clerk’s minutes.”).

¶3 Because we accept the State’s confession of error, we correct the minute entry to reflect that the fine and assessments were imposed only as to Count 1. We otherwise affirm the convictions and sentences on both counts.



Ruth A. Willingham · Clerk of the Court
FILED : ama