

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL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.

LARRY WEBB, *Appellant*.

No. 1 CA-CR 16-0883
FILED 8-22-2017

Appeal from the Superior Court in Maricopa County
No. CR2015-146660-001
The Honorable Jose S. Padilla, Judge

AFFIRMED

COUNSEL

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

Maricopa County Public Defender's Office, Phoenix
By Paul J. Prato
Counsel for Appellant

Larry Webb, Peoria
Appellant

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MEMORANDUM DECISION

Chief Judge Samuel A. Thumma delivered the decision of the Court, in which Judge Lawrence F. Winthrop and Judge James P. Beene joined.

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 (1969). Counsel for defendant Larry Webb has advised the court that, after searching the entire record, he has found no arguable question of law, and asks this court to conduct an *Anders* review of the record. Webb was given the opportunity to file a supplemental brief pro se, and has done so. This court has reviewed the record and has found no reversible error. Accordingly, Webb's conviction and resulting probation grant are affirmed.

FACTS¹ AND PROCEDURAL HISTORY

¶2 One May 2015 morning, Webb was visiting the Veterans Administration (VA) campus in Phoenix. He became involved in an altercation between two police officers and another individual who was causing a disturbance. Webb interfered with the officers by yelling profanities and refusing to leave. Both officers individually asked Webb to leave at least three times. On the third warning, one officer informed Webb if he did not leave, he would be arrested for interfering with police and disorderly conduct.

¶3 Webb left briefly but then returned and resumed interfering with the officers. One officer informed him he was under arrest and attempted to handcuff him. The officer managed to handcuff Webb's right hand, but Webb flailed his arms and struggled, striking the arresting officer in the arm with the handcuff. After a brief struggle, the officers managed to handcuff Webb's other hand and place him under arrest.

¹ This court views the facts "in the light most favorable to sustaining the verdict, and resolve[s] all reasonable inferences against the defendant." *State v. Rienhardt*, 190 Ariz. 579, 588-89 (1997) (citation omitted).

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¶4 The State charged Webb with one count of resisting arrest, a Class 6 felony. After Webb properly waived his right to counsel, the court appointed advisory counsel. After several continuances, trial began on November 7, 2016.

¶5 At trial, the State called the two arresting officers and presented photo evidence of a bruise that one officer sustained during the arrest. Webb cross-examined the first officer, but revoked his waiver to his right to counsel during the second officer's testimony. Advisory counsel confirmed that he was ready to take over as counsel and the trial continued. After the State's case, Webb unsuccessfully moved for a judgement of acquittal. Webb called no witnesses and did not testify. After deliberating, the jury found Webb guilty as charged.

¶6 At a December 2016 sentencing, the court suspended sentence and placed Webb on unsupervised probation for six months adding that the offense would be designated a misdemeanor upon successful completion of probation. This court has jurisdiction over Webb's timely appeal pursuant to the Arizona Constitution, Article 6, Section 9, and Arizona Revised Statutes (A.R.S.) sections 12-120.21(A)(1), 13-4031, and -4033(A)(1) (2017).²

DISCUSSION

¶7 This court has reviewed and considered counsel's brief and appellant's pro se supplemental brief, and has searched the entire record for reversible error. *See State v. Clark*, 196 Ariz. 530, 537 ¶ 30 (App. 1999). Searching the record and briefs reveals no reversible error. The record shows, Webb had knowingly, voluntarily and intelligently waived his right to counsel during the time he was self-represented. The evidence admitted at trial constitutes substantial evidence supporting Webb's conviction. From the record, all proceedings were conducted in compliance with the Arizona Rules of Criminal Procedure, and the consequences imposed were within the statutory limits and permissible range.

¶8 In his supplemental brief, Webb asserts that the State "continuously refused to provide discovery items that [he] requested" and the court failed to rule on the relevance of his requested items. However, a review of the record demonstrates this is not true. Numerous pretrial hearings were held to consider Webb's extensive discovery requests, with

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

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the court ruling on each item. While both parties encountered difficulty obtaining discovery items in the custody of the VA, the court allowed several trial extensions to accommodate discovery and there were no relevant items outstanding by the time trial began.

¶9 Webb claims he was denied due process because the prosecutor did not obtain and disclose an unredacted version of a report prepared by a VA internal investigator.³ The State is required to disclose all police reports pertaining to the incident. *See* Ariz. R. Crim. P. 15.1(b)(8); *see also Brady v. Maryland*, 373 U.S. 83 (1963). The VA internal investigator's report, however, is not a police report pertaining to the incident, nor has Webb demonstrated that the report would have been favorable to his case. Moreover, Webb had access to the agent who authored the report and failed to call him as a witness at trial.

CONCLUSION

¶10 This court has read and considered counsel's brief and Webb's pro se supplemental brief, and has searched the record provided for reversible error and has found none. *Leon*, 104 Ariz. at 300; *Clark*, 196 Ariz. at 537 ¶ 30. Accordingly, Webb's conviction and resulting sentence are affirmed.

¶11 Upon the filing of this decision, defense counsel is directed to inform Webb of the status of the appeal and of his future options. Defense counsel has no further obligations unless, upon review, counsel identifies an issue appropriate for submission to the Arizona Supreme Court by petition for review. *See State v. Shattuck*, 140 Ariz. 582, 584-85 (1984). Webb shall have 30 days from the date of this decision to proceed, if he desires, with a pro se motion for reconsideration or petition for review.



AMY M. WOOD • Clerk of the Court
FILED: AA

³ Webb also argues he was denied access to discovery items such as Occupational Safety and Health Association forms that would help to defend the charge that he injured an officer. Webb was not charged with injuring or assaulting an officer, thus these items were not relevant.