

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL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

DAVID SOTO, *Appellant*.

No. 1 CA-CR 17-0050
FILED 2-6-2018

Appeal from the Superior Court in Maricopa County
No. CR2016-124193-001
The Honorable Mark H. Brain, Judge

AFFIRMED

COUNSEL

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

Maricopa County Public Defender's Office, Phoenix
By Jesse Finn Turner
Counsel for Appellant

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MEMORANDUM DECISION

Chief Judge Samuel A. Thumma delivered the decision of the Court, in which Presiding Judge Kenton D. Jones and Judge Jon W. Thompson joined.

T H U M M A, Chief 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 appellant David Soto 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. Soto was given the opportunity to file a supplemental brief pro se, but has not done so. This court has reviewed the record and has found no reversible error. Accordingly, Soto’s conviction and resulting sentence are affirmed.

FACTS¹ AND PROCEDURAL HISTORY

¶2 In May 2016, incident to Soto’s arrest on an unrelated charge, Phoenix police officers searched a backpack he was carrying. The officers found “several identity documents consisting of checks, debit cards, credit cards, other forms of identification” for individuals other than Soto “that were wrapped together.” A computer search revealed that some individuals listed on the documents had reported the documents being stolen. A detective determined the bundle contained 30 different names or entities. The detective contacted five individuals named in the bundle, all of whom confirmed Soto did not have permission to have possession of their documents.

¶3 Soto was charged by indictment with aggravated taking identity of another, a Class 3 felony. During a three-day jury trial, the State called as witnesses the arresting officers and some of the victims. After the State rested, Soto elected not to testify or offer any affirmative evidence, as was his right.

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 jury was instructed on the law and heard closing arguments. After deliberating, the jury unanimously found Soto guilty as charged. The jury was polled and confirmed their verdict. Soto waived his right to an aggravation trial and acknowledged he was on probation in May 2016.

¶5 At a January 2017 sentencing, the court found Soto had three prior historical felony convictions, that he was on probation at the time of the offense and aggravating factors. The court found Soto was a category three repetitive offender convicted of a non-dangerous Class 3 felony committed while on probation and sentenced him to a presumptive term of 11.25 years in prison, properly awarding him 243 days of pre-sentence incarceration.

¶6 This court has jurisdiction over Soto's timely appeal 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)(2018).²

DISCUSSION

¶7 Counsel for Soto advised this court that after a search of the entire record, counsel found no arguable question of law. This court has reviewed and considered counsel's 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 brief reveals no reversible error.

¶8 The record shows Soto was represented by counsel at all stages of the proceedings and counsel was present at all critical stages. The record provided shows there was substantial evidence supporting Soto's conviction and sentence. 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.

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

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CONCLUSION

¶9 This court has read and considered counsel's 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, Soto's convictions and resulting sentences are affirmed.

¶10 Upon filing of this decision, defense counsel is directed to inform Soto 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). Soto 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