

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL  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

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STATE OF ARIZONA, *Appellee*,

*v.*

DEAN JEROME PERRY, *Appellant*.

No. 1 CA-CR 17-0343  
FILED 5-24-2018

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Appeal from the Superior Court in Yavapai County  
No. P1300CR201600884  
The Honorable Jennifer B. Campbell, Judge  
The Honorable Patricia A. Trebesch, Judge

**AFFIRMED**

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COUNSEL

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

Craig Williams, Prescott Valley  
*Counsel for Appellant*

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**MEMORANDUM DECISION**

Chief Judge Samuel A. Thumma delivered the decision of the Court, in which Presiding Judge Michael J. Brown and Judge Peter B. Swann joined.

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**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 defendant Dean Jerome Perry 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. Perry 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, Perry's conviction and resulting probation grant are affirmed.

**FACTS<sup>1</sup> AND PROCEDURAL HISTORY**

¶1 In July 2016, Perry was charged by indictment for aggravated assault of a peace officer ("reasonable apprehension of imminent physical injury"), a Class 5 felony, committed on May 20, 2016. The incident occurred near the Yavapai County Superior Courthouse in Prescott.

¶2 An individual reported to law enforcement that Perry was believed to be intoxicated and intending to drive. A Prescott Police Officer approached Perry, who was sitting in his pickup trying to "cool off" after a court hearing. The officer relayed the concern to Perry, stating he wanted to make sure Perry "was okay to drive." Perry got upset and asked the officer for his name and badge number. The officer concluded that Perry was not intoxicated and went to get a business card in his police car to provide to Perry.

¶3 Another Prescott Police Officer arrived, spoke briefly with the first officer, and approached the pickup as Perry's wife was getting in the driver's seat. This second officer, who was in uniform, opened the driver-

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<sup>1</sup> 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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side door and directed that it remain open; Perry slammed the door shut. Perry then clenched his fists, “attempted to throw a punch” or “swung his fist” at the second officer, a struggle followed and Perry was arrested and charged.

¶4 After pre-trial motion practice, the court held a two-day jury trial in March 2017. After an evidentiary hearing, the court found that all pre-arrest statements Perry made were voluntary, without duress or coercion or any promise, and as a result were admissible. At trial, the State offered testimony of the two police officers. After the State rested, the superior court found that there was substantial evidence to warrant a conviction. Perry then called as witnesses his wife, his doctor, recalled one of the police officers and elected to testify himself. Perry also offered photographs and cell phone video that were received in evidence. The State recalled one of the police officers in rebuttal. After the close of the evidence, the court read the final jury instructions and counsel presented closing arguments.<sup>2</sup> After deliberation, the jury found Perry guilty as charged. Perry, who was convicted of a non-dangerous, non-repetitive offense, was placed on supervised probation for two years.

¶5 This court has jurisdiction over Perry’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) (2017).

**DISCUSSION**

¶6 Counsel for Perry advised this court that after a diligent 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.

¶7 The record shows Perry was represented by counsel at all stages of the proceedings and counsel was present at all critical stages. The

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<sup>2</sup> The record on appeal does not include a transcript of the closing arguments. Perry, however, filed his notice of appeal in 2017 when closing arguments were not presumptively included in the transcript on appeal, Ariz. R. Crim. P. 31.8(b)(2)(ii) (2017), a presumption that has since changed, Ariz. R. Crim. P. 31.8(b)(1)(B)(ii) (2018) (providing, effective January 1, 2018, transcript on appeal presumptively includes closing arguments).

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record provided also shows there was substantial evidence supporting Perry's conviction and resulting probation grant. From the record, all proceedings were conducted in compliance with the Arizona Rules of Criminal Procedure, and the probation grant was authorized by statute.

**CONCLUSION**

¶8 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, Perry's conviction and resulting probation grant are affirmed.

¶9 Upon the filing of this decision, defense counsel is directed to inform Perry 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). Perry 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