

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL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

JOSEPH MICHAEL BAY, *Appellant*.

Nos. 1 CA-CR 17-0515; 1 CA-CR 17-0516; 1 CA-CR 17-0517 (Consolidated)
FILED 4-3-2018

Appeal from the Superior Court in Maricopa County
Nos. CR2012-007342-001 DT; CR2012-119457-001 SE;
CR2012-117901-001 SE
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 Joel M. Glynn
Counsel for Appellant

STATE v. BAY
Decision of the Court

MEMORANDUM DECISION

Judge James B. Morse Jr. delivered the decision of the Court, in which Presiding Judge Randall M. Howe and Judge Kenton D. Jones joined.

M O R S E, Judge:

¶1 This case is an appeal under *Anders v. California*, 386 U.S. 738 (1967), and *State v. Leon*, 104 Ariz. 297 (1969). Counsel for Joseph Michael Bay ("defendant") has advised us that, after searching the entire record, he has been unable to discover any arguable questions of law and has filed a brief requesting this court conduct an *Anders* review of the record. Defendant was also allowed to file a supplemental brief in propria persona, but did not do so. Finding no reversible error, we affirm.

¶2 In 2012, defendant was convicted in three separate cases of two counts of Burglary in the Third Degree, a class four felony, and two counts of Robbery, a class 4 felony. On December 14, 2012, pursuant to his plea agreements in those cases, defendant was placed on probation for terms of three years. Those probationary terms began on July 12, 2015, after defendant was released from prison in a fourth case.

¶3 On December 11, 2015, defendant's probation officer filed a petition to revoke probation after defendant was charged in a new case with one count of Burglary in the Third Degree, a class four felony, committed on December 9, 2015.¹ The petition to revoke was signed by the superior court on December 14, 2015.

¶4 On August 4, 2016, a jury convicted defendant of the new burglary charge. On that same day, based on the determination of guilt in the new case, the superior court found that defendant "has violated the conditions of probation previously imposed." On September 13, 2016, the superior court held a disposition hearing and sentenced defendant to concurrent presumptive terms (2.5 years) in prison for each of the probation

¹ The petition also alleged other non-substantive probation violations.

STATE v. BAY
Decision of the Court

counts, to run consecutive to the 10-year prison term imposed in the new case.²

¶5 We have read and considered defendant's *Anders* brief, and we have searched the entire record for reversible error. Our review reveals no fundamental error. See *Leon*, 104 Ariz. at 300 ("An exhaustive search of the record has failed to produce any prejudicial error."). The superior court was authorized to rely on the jury's verdict in the new case to determine that defendant had violated the terms of his probation. Ariz. R. Crim. P. 27.8(e). The remaining proceedings were conducted in compliance with the Arizona Rules of Criminal Procedure, and the sentence imposed was within the statutory limits. *State v. Piotrowski*, 233 Ariz. 595, 598-99, ¶¶ 16-17 (App. 2014).

¶6 Pursuant to *State v. Shattuck*, 140 Ariz. 582, 584-85 (1984), defendant's counsel's obligations in this appeal are at an end. Defendant has thirty days from the date of this decision in which to proceed, if he so desires, with an in propria persona motion for reconsideration or petition for review.



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

² Defendant's conviction and sentence for the new burglary charge were affirmed by this court in an *Anders* appeal. *State v. Bay*, 1 CA-CR 16-0648, 2017 WL 2875098 (App. July 6, 2017).