

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL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

EDWARD A. BUEHLER, *Appellant*.

No. 1 CA-CR 18-0756
FILED 7-30-2019

Appeal from the Superior Court in Yavapai County
No. P1300CR201700545
The Honorable Tina R. Ainley, Judge

AFFIRMED

COUNSEL

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

M. Alex Harris, PC, Chino Valley
By M. Alex Harris
Counsel for Appellant

STATE v. BUEHLER
Decision of the Court

MEMORANDUM DECISION

Chief Judge Peter B. Swann delivered the decision of the court, in which Presiding Judge Paul J. McMurdie and Judge Samuel A. Thumma joined.

S W A N N, Chief Judge:

¶1 This is an appeal under *Anders v. California*, 386 U.S. 738 (1967), and *State v. Leon*, 104 Ariz. 297 (1969), from Edward A. Buehler’s convictions and imposition of probation. Neither Buehler nor his counsel identify any issues for appeal. We have reviewed the record for fundamental error. See *Smith v. Robbins*, 528 U.S. 259 (2000); *Anders*, 386 U.S. 738; *State v. Clark*, 196 Ariz. 530, 537, ¶ 30 (App. 1999). We find none.

¶2 Buehler was indicted for two counts of aggravated assault (class five felonies) and one count of resisting arrest (a class six felony). He pled not guilty, and the matter proceeded to a jury trial.

¶3 At trial, the state presented evidence of the following facts. On March 1, 2017, two Prescott Valley police officers, Sease and Frost, pulled over Buehler after noticing a pair of novelty boxing gloves hanging from his rearview mirror. Officer Sease approached Buehler’s car on the driver’s side and Officer Frost on the passenger side, where Buehler’s window was partly rolled down. Officer Sease told Buehler why he was pulled over. Buehler was agitated and cursing, and when asked whether he had any weapons, he responded that he had brass knuckles in the back seat.

¶4 After checking for warrants and a valid license, the officers decided to give Buehler a warning, and told him that he would have to take down the boxing gloves and a windshield-mounted radar detector because they obstructed his view. Buehler became more agitated and responded, “fuck you, I’m not doing shit.” Buehler’s right arm went down between his seat and center console, and Officer Frost immediately began commanding him to place his hands on the steering wheel. Buehler did not comply, but when Officer Frost opened the car door to grab Buehler’s arm, Buehler moved his arm back to the steering wheel.

¶5 Officer Frost ordered Buehler out of the car, and Buehler “slamm[ed] the door open,” nearly hitting Officer Sease. Buehler got out of

STATE v. BUEHLER
Decision of the Court

the car with a “combative” demeanor and his hands “balled up in fists,” and stared at Officer Sease, who, sensing that “something else was going to happen,” ordered Buehler to face the other direction. Buehler did not immediately comply with the order, so the two officers tried to push him up against the car but he was “squirming around” and pushed back at the officers. Fearing that he might try to escape or reach for a weapon, the officers took Buehler to the ground, where they struggled to get him on his stomach because he was “kicking and swinging his arms.” The officers were ultimately able to handcuff and arrest Buehler.

¶6 After a two-day trial, the jury found Buehler guilty as charged, and the court suspended his sentences and imposed two years of probation. And while the court ordered Buehler incarcerated for three days in Yavapai County jail, it gave him credit for three days of presentence incarceration, which cancelled out the order.

¶7 We detect no fundamental error. Buehler was present and represented at all critical stages. The jury was properly comprised under A.R.S. § 21-102 and was properly instructed. The jury’s verdicts were supported by sufficient evidence.

¶8 “A person commits assault by . . . [i]ntentionally placing another person in reasonable apprehension of imminent physical injury.” A.R.S. § 13-1203(A)(2). Assault becomes aggravated assault when the person knows or has reason to know that the victim is a peace officer. A.R.S. § 13-1204(A)(8)(a). And “[a] person commits resisting arrest by intentionally preventing or attempting to prevent a [peace officer] . . . from effecting an arrest by . . . [u]sing or threatening to use physical force against the peace officer.” A.R.S. § 13-2508(A)(1). Here, Buehler had reason to know that Officers Sease and Frost were peace officers because they were in uniform and drove a marked car. Buehler was agitated and verbally aggressive with the officers throughout their interaction. The officers were aware that Buehler had brass knuckles in the car. Buehler’s physical combativeness when the officers attempted to subdue and arrest him, combined with his earlier verbal aggression and agitation, reasonably caused the officers to fear imminent harm and constituted an intentional attempt to prevent the officers from effecting the arrest. The court imposed lawful punishment for the convictions under A.R.S. §§ 13-901, -902(A), -1204(F), -2508(B).

¶9 We affirm. Defense counsel’s obligations pertaining to this appeal have come to an end. *See State v. Shattuck*, 140 Ariz. 582, 584–85 (1984). Unless, upon review, counsel discovers an issue appropriate for

STATE v. BUEHLER
Decision of the Court

petition for review to the Arizona Supreme Court, counsel must only inform Buehler of the status of this appeal and his future options. *Id.* Buehler has 30 days from the date of this decision to file a petition for review *in propria persona*. See Ariz. R. Crim. P. ("Rule") 31.21(b)(2)(A). Upon the court's own motion, Buehler has 30 days from the date of this decision in which to file a motion for reconsideration. See Rule 31.20(c).



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