

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL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

RYAN NICHOLAS KENDALL, *Appellant*.

No. 1 CA-CR 20-0032

FILED 11-24-2020

Appeal from the Superior Court in Maricopa County
No. CR2014-118347-001
The Honorable Christine E. Mulleneaux, Judge *Pro Tempore*

AFFIRMED

COUNSEL

Arizona Attorney General's Office, Phoenix
By Michael O'Toole
Counsel for Appellee

Maricopa County Public Defender's Office, Phoenix
By Joel M. Glynn
Counsel for Appellant

MEMORANDUM DECISION

Presiding Judge Jennifer M. Perkins delivered the decision of the Court, in which Judge David B. Gass and Judge Michael J. Brown joined.

P E R K I N S, Judge:

¶1 Ryan Nicholas Kendall timely filed this appeal in accordance with *Anders v. California*, 386 U.S. 738 (1967) and *State v. Leon*, 104 Ariz. 297 (1969), following the superior court’s revocation of his probation and imposition of prison sentences. Kendall’s counsel has searched the record on appeal and found no arguable question of law that is not frivolous. *Anders*, 386 U.S. at 744; *State v. Clark*, 196 Ariz. 530, 537, ¶ 30 (App. 1999). We must review the record for reversible error. *Clark*, 196 Ariz. at 537, ¶ 30. We view the evidence in the light most favorable to sustaining the superior court’s findings and resolve all reasonable inferences against Kendall. *State v. Guerra*, 161 Ariz. 289, 293 (1989). Having reviewed the record, we find no reversible error and affirm.

¶2 In June 2014, Kendall pled guilty to two counts of aggravated assault, each a class three felony, and one count of possession of dangerous drugs, a class four felony. For one of his aggravated assault convictions, the superior court sentenced Kendall to the Arizona Department of Corrections (“ADOC”) for 3.5 years. For his two other convictions, the superior court sentenced Kendall to two probationary terms of three years, running concurrently. Kendall’s probation began following his release from ADOC and ran concurrently with another three years’ probation sentence from an unrelated conviction.

¶3 Kendall was released from custody in April 2017. After failing to report on numerous occasions and changing residences without prior approval, the probation department filed four petitions to revoke Kendall’s probation and the superior court issued warrants for his arrest.

¶4 In September 2019, the probation department filed a supplemental petition to revoke Kendall’s probation. The petition alleged he violated his probation by committing aggravated assault, possessing a firearm, and possessing an illegal substance. Kendall denied these allegations and the superior court held a probation violation hearing.

STATE v. KENDALL
Decision of the Court

¶5 A police officer who responded to the alleged violation testified at the hearing. According to the officer's testimony, he and another officer responded to a "hot call" regarding a fight at a mobile home park on September 21, 2019. Upon arrival, the officers spoke with a woman who suffered a gunshot wound and she informed them that the shooter fled to a mobile home unit within the park. The officers entered the unit and found Kendall unresponsive on the floor from what appeared to be an opiate overdose. The fire department arrived shortly after and transported Kendall to a nearby hospital. At the hospital, two bags of unknown substances fell out of Kendall's jean pockets. A certified substance examining officer later identified the substances as methamphetamine and heroin.

¶6 Following the probation violation hearing, the superior court found that Kendall violated his probation, revoked his probation, and sentenced him to concurrent prison terms of one year, 2.5 years, and 3.5 years. Kendall timely appealed.

¶7 The record reflects all proceedings were conducted in compliance with the Arizona Rules of Criminal Procedure. *See State v. Gomez*, 27 Ariz. App. 248, 251 (App. 1976). Kendall was present for and represented by counsel at all stages of the proceedings. The record contains sufficient evidence for which the court could find, by a preponderance of the evidence, that Kendall is guilty of violating the terms of his probation. At sentencing Kendall was allowed to speak, did so, and the court stated on the record the factors it considered in imposing the sentences. *See Ariz. R. Crim. P.* 26.9, 26.10. The court delivered sentences within the statutory limits. *See A.R.S.* §§ 13-701 to -709.

¶8 We have reviewed the entire record for arguable issues of law and find none. We therefore affirm Kendall's convictions and resulting sentences. *Leon*, 104 Ariz. at 300-01.

¶9 Defense counsel's obligations pertaining to Kendall's representation in this appeal have ended. Counsel need do no more than inform Kendall of the outcome of this appeal and his future options, unless, upon review, counsel finds "an issue appropriate for submission" to the Arizona Supreme Court by petition for review. *See State v. Shattuck*, 140 Ariz. 582, 584-85 (1984). On the court's own motion, Kendall has thirty days from the date of this decision to proceed, if he wishes, with a pro per motion

STATE v. KENDALL
Decision of the Court

for reconsideration. Kendall also has thirty days from the date of this decision to proceed, if he wishes, with a pro per petition for review.



AMY M. WOOD • Clerk of the Court
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