

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL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

MICHAEL JAMES ENGLISH, *Appellant*.

No. 1 CA-CR 20-0366
FILED 10-14-2021

Appeal from the Superior Court in Maricopa County
No. CR2019-147170-001
The Honorable Timothy J. Ryan, Judge
The Honorable Aryeh D. Schwartz, Judge

AFFIRMED

COUNSEL

Arizona Attorney General's Office, Phoenix
By Linley Wilson
Counsel for Appellee

Maricopa County Public Defender, Phoenix
By Mark E. Dwyer
Counsel for Appellant

MEMORANDUM DECISION

Presiding Judge Paul J. McMurdie delivered the Court’s decision, in which Judge Cynthia J. Bailey and Judge Lawrence F. Winthrop joined.¹

M c M U R D I E, Judge:

¶1 Michael James English appeals from his convictions for aggravated assault on a peace officer and disorderly conduct and the resulting sentences. English’s counsel filed a brief per *Anders v. California*, 386 U.S. 738 (1967), and *State v. Leon*, 104 Ariz. 297 (1969), certifying that, after a diligent search of the record, he found no arguable question of law that was not frivolous. English was allowed to file a supplemental brief but did not do so. Counsel asks this court to search the record for arguable issues. See *Penson v. Ohio*, 488 U.S. 75 (1988); *State v. Clark*, 196 Ariz. 530, 537, ¶ 30 (App. 1999). After reviewing the record, we affirm English’s convictions and sentences.

FACTS AND PROCEDURAL BACKGROUND

¶2 In October 2019, English, a transient veteran, went to the Phoenix VA Medical Center to receive services. Several uniformed VA police officers patrolling the center received a call that a man was creating a disturbance at a clinic within the center. When they arrived, English was shouting obscenities at the medical staff behind the window. Clinic operations had stopped, staff’s work was disrupted, and patients were upset over English’s behavior.

¶3 One officer approached English and asked him to step out of the clinic. English would not speak with him, continued to shout obscenities, and then lunged toward the officer in a threatening manner.

¹ Judge Lawrence F. Winthrop was a sitting member of the court when the matter was assigned to this panel. He retired effective June 30, 2021. In accordance with the authority granted by Article 6, Section 3, of the Arizona Constitution and A.R.S. § 12-145, the Chief Justice of the Arizona Supreme Court designated Judge Winthrop as a judge *pro tempore* for the Court of Appeals, Division One, to participate in resolving cases assigned to the panel during his term in office.

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When this happened, two other officers pushed English up against a wall to handcuff him. English resisted and continued to make a scene.

¶4 Once detained, the officers escorted English out of the clinic. English continued to shout, turning and spitting on the officers as he was speaking. Although asked to stop multiple times, English continued to spit in the officers' faces. Both officers testified that spit landed on their faces, including their mouths and eyes. A third officer testified that he saw English cock his head back, put his lips together, and spit into one officer's face. Afterward, the officers were treated at the Phoenix VA Emergency Department for bodily fluid exposure.

¶5 English was charged with two counts of aggravated assault on a peace officer under A.R.S. § 13-1204 and one count of disorderly conduct under A.R.S. § 13-2904. English later rejected a plea offer even after the court advised him according to *State v. Donald*, 198 Ariz. 406, 413, ¶ 14 (App. 2000). English again rejected the State's plea offer after a settlement conference.

¶6 At the trial, the three officers and a clinical psychologist testified. The State presented evidence that English had disrupted the clinic operations with his shouting, would not leave the clinic with the officers, and spat in the officers' faces while detained. Following the State's case, English moved for a judgment of acquittal under Arizona Rule of Criminal Procedure 20, which the court denied.

¶7 The jury found English guilty on one count of aggravated assault and disorderly conduct but acquitted him on the second count of aggravated assault. At sentencing, the court suspended the imposition of a sentence for the assault and placed English on probation for three years. As a condition of his probation, the court ordered English to serve 12 months in jail with credit for 200 days' time served. For the disorderly conduct, the court sentenced English to one day in jail with time served. After obtaining the court's permission, English filed a delayed notice of appeal.

DISCUSSION

¶8 We have read and considered counsel's brief and have reviewed the record for any arguable issues. *See Leon*, 104 Ariz. at 300. We find none.

¶9 English was present and represented by counsel at all stages of the proceedings against him, except for one trial management conference for which English waived his presence. The record reflects the superior

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court afforded English all his constitutional and statutory rights and conducted the proceedings following the Arizona Rules of Criminal Procedure. The court held appropriate pretrial hearings, and the evidence presented at trial and summarized above was sufficient to support the jury's verdicts. English's sentences fall within the range prescribed by law, with proper credit given for presentence incarceration.

CONCLUSION

¶10 English's convictions and sentences are affirmed. After the filing of this decision, defense counsel's obligations pertaining to English's representation in this appeal will end after informing English of the outcome of this appeal and his future options, unless counsel's review reveals an issue appropriate for submission to the Arizona Supreme Court by petition for review. *See State v. Shattuck*, 140 Ariz. 582, 584-85 (1984).



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