

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED
EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);
Ariz. R. Crim. P. 31.24



DIVISION ONE
FILED: 09/2/10
RUTH WILLINGHAM,
ACTING CLERK
BY: DN

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

STATE OF ARIZONA,) 1 CA-CR 09-0255
)
Appellee,) DEPARTMENT B
)
v.) **MEMORANDUM DECISION**
) (Not for Publication - Rule
VIRGIL RAY HAMPTON,) 111, Rules of the Arizona
) Supreme Court)
Appellant.)
)

Appeal from the Superior Court in Maricopa County

Cause No. CR 2007-143631-001 DT

The Honorable Steven K. Holding, Judge Pro Tempore
The Honorable Colleen L. French, Judge Pro Tempore

AFFIRMED

Terry Goddard, Attorney General Phoenix
By Kent E. Cattani, Chief Counsel
Criminal Appeals/Capital Litigation Section
Attorneys for Appellee

Sullivan Law Office PLLC Mesa
By Dianne Sullivan
Attorneys for Appellant

N O R R I S, Judge

¶1 Virgil Ray Hampton timely appeals from his convictions
and sentences for violating Arizona Revised Statutes ("A.R.S.")

section 28-622.01 (2004), Unlawful Flight from Pursuing Law Enforcement Vehicle, and A.R.S. § 13-2809 (2010), Tampering with Physical Evidence, a class five and a class six felony, respectively. After searching the record on appeal and finding no arguable question of law that was not frivolous, Hampton's counsel filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967), and *State v. Leon*, 104 Ariz. 297, 451 P.2d 878 (1969), asking this court to search the record for fundamental error. This court granted counsel's motion to allow Hampton to file a supplemental brief *in propria persona*, but Hampton chose not to do so. After reviewing the entire record, we find no fundamental error and, therefore, affirm Hampton's convictions and sentences.

FACTS AND PROCEDURAL BACKGROUND¹

¶2 On July 8, 2007, at approximately 11 p.m., two police officers were driving a fully marked Phoenix Police Department patrol car with operational red and blue lights. The officers saw an SUV make an illegal left turn. The officers activated their vehicle's red and blue lights to stop the SUV. The SUV proceeded through a stop sign at five miles per hour and accelerated to approximately 40 to 50 miles per hour, exceeding

¹We view the facts in the light most favorable to sustaining the jury's verdict and resolve all inferences against Hampton. *State v. Guerra*, 161 Ariz. 289, 293, 778 P.2d 1185, 1189 (1989).

the posted speed limit. The officers activated the siren, began to chase the SUV, and notified nearby officers of the chase. The SUV turned right onto another street, and an officer saw the SUV's driver throw a vial out the driver's window, which shattered upon impact. Soon after, the SUV's driver -- Hampton -- pulled over, and the officers took him into custody. The police later confirmed the substance in the vial was Phencyclidine ("PCP").

¶13 On July 24, 2008, a jury found Hampton guilty of unlawful flight and tampering with physical evidence. The court sentenced Hampton to concurrent terms of imprisonment, five years for unlawful flight and 3.75 years for tampering, with 421 days of presentence incarceration credit for each count.

DISCUSSION

¶14 We have reviewed the entire record for reversible error and find none. See *Leon*, 104 Ariz. at 300, 451 P.2d at 881. Hampton received a fair trial. He was represented by counsel at all stages of the proceedings and was present at all critical stages.

¶15 The evidence presented at trial was substantial and supports the verdicts. The jury was properly composed of eight members and the court properly instructed the jury on the elements of the charges, Hampton's presumption of innocence, the State's burden of proof, and the necessity of a unanimous

verdict. The superior court received and considered a presentence report, Hampton was given an opportunity to speak at sentencing, and his sentences were within the range of acceptable sentences for his offenses.

CONCLUSION

¶6 We decline to order briefing and affirm Hampton's convictions and sentences.

¶7 After the filing of this decision, defense counsel's obligations pertaining to Hampton's representation in this appeal have ended. Defense counsel need do no more than inform Hampton 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. *State v. Shattuck*, 140 Ariz. 582, 584-85, 684 P.2d 154, 156-57 (1984).

¶18 Hampton has 30 days from the date of this decision to proceed, if he wishes, with an *in propria persona* petition for review. On the court's own motion, we also grant Hampton 30 days from the date of this decision to file an *in propria persona* motion for reconsideration.

/s/

PATRICIA K. NORRIS, Judge

CONCURRING:

/s/

JOHN C. GEMMILL, Presiding Judge

/s/

MAURICE PORTLEY, Judge