

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: 06-24-010
PHILIP G. URRY, CLERK
BY: GH

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

STATE OF ARIZONA,)
) No. 1 CA-CR 09-0739
)
 Appellee,) DEPARTMENT E
)
 v.) **MEMORANDUM DECISION**
)
 FRED THOMPSON VENABLE,) (Not for Publication -
) Rule 111, Rules of the
 Appellant.) Arizona Supreme Court)
)
)

Appeal from the Superior Court in Maricopa County

Cause No. CR 2009-112710-001 DT

The Honorable Julie P. Newell, Judge Pro Tempore

AFFIRMED

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

Bruce Peterson, Legal Advocate Phoenix
by Kerri L. Chamberlin, Deputy Legal Advocate
Attorneys for Appellant

H A L L, Judge

¶1 Fred Thompson Venable appeals from his convictions and the sentences imposed.

¶2 Defendant's appellate 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), advising that, after a diligent search of the record, she was unable to find any arguable grounds for reversal. This court granted defendant an opportunity to file a supplemental brief, which he has not done. See *State v. Clark*, 196 Ariz. 530, 537, ¶ 30, 2 P.3d 89, 96 (App. 1999).

¶3 We review for fundamental error, error that goes to the foundation of a case or takes from the defendant a right essential to his defense. See *State v. King*, 158 Ariz. 419, 424, 763 P.2d 239, 244 (1988). We view the evidence presented in a light most favorable to sustaining the verdict. *State v. Cropper*, 205 Ariz. 181, 182, ¶ 2, 68 P.3d 407, 408 (2003). Finding no reversible error, we affirm.

¶4 On February 27, 2009, defendant was charged by indictment with one count of unlawful flight from a law enforcement vehicle, a class five felony, in violation of Arizona Revised Statutes (A.R.S.) section 28-622.01 (2004), and one count of misconduct involving weapons, a class four felony, in violation of A.R.S. § 13-3102(A)(4) (2010).

¶15 On February 19, 2009, Officer B.H. of the Phoenix Police Department observed a tan 1981 Chevy Impala make a wide left-hand turn into the wrong lane. Officer B.H. positioned himself behind the vehicle and activated his overhead lights and siren. The Impala moved into the curb lane, but maintained its speed. Initially, Officer B.H. thought the vehicle was waiting for a safe place to pull over. The car passed through the next intersection, however, and continued through 19th Avenue and the Maricopa Freeway.

¶16 Officer B.H. then radioed for assistance because it appeared the vehicle was not going to stop. The Impala continued traveling northbound and collided with another vehicle. Eventually, the driver of the vehicle lost control and stopped. The driver's side door opened and defendant "hopped over the hood of his car and ran eastbound down the alley."

¶17 Officer M.F. of the Phoenix Police Department also observed defendant jump out of the Impala and start running. He saw defendant jump over a wall into a yard. The officer "catwalked" the wall until he was right next to defendant and jumped down on him. He then placed defendant under arrest.

¶18 Officer B.H. removed the three passengers from the vehicle and placed them in separate vehicles. During the removal of the front-seat passenger, the officer observed a

"chrome semi-automatic handgun" in between his left leg and the seat cushion.

¶9 After a four-day trial, the jury found defendant guilty as charged. During his trial testimony, defendant had admitted to having two historical prior felony convictions and the trial court sentenced him to concurrent presumptive terms that effectively resulted in a ten-year sentence of imprisonment.

¶10 We have read and considered counsel's brief and have searched the entire record for reversible error. *See Leon*, 104 Ariz. at 300, 451 P.2d at 881. We find none. All of the proceedings were conducted in compliance with the Arizona Rules of Criminal Procedure. Defendant was given an opportunity to speak before sentencing, and the sentence imposed was within statutory limits. Furthermore, based on our review of the record, there was sufficient evidence for the jury to find that defendant committed the offense for which he was convicted.

¶11 After the filing of this decision, counsel's obligations pertaining to defendant's representation in this appeal have ended. Counsel need do no more than inform defendant of the status of the 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, 684 P.2d 154, 156-

57 (1984). Defendant has thirty days from the date of this decision to proceed, if he desires, with a pro per motion for reconsideration or petition for review. Accordingly, defendant's convictions and sentences are affirmed.

 /s/_____
PHILIP HALL, Judge

CONCURRING:

 /s/_____
DIANE M. JOHNSEN, Presiding Judge

 /s/_____
DANIEL A. BARKER, Judge