

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
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IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

STATE OF ARIZONA,)
) No. 1 CA-CR 09-0859
)
 Appellee,) DEPARTMENT E
)
 v.) **MEMORANDUM DECISION**
)
 ATHAR ALMAS,) (Not for Publication -
) Rule 111, Rules of the
) Arizona Supreme Court)
 Appellant.)
)
)

Appeal from the Superior Court in Maricopa County

Cause No. CR 2008-179796-001 DT

The Honorable Janet E. Barton, Judge

AFFIRMED

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

James J. Haas, Maricopa County Public Defender Phoenix
by Joel M. Glynn, Deputy Public Defender
Attorneys for Appellant

H A L L, Judge

¶1 Athar Almas appeals from her conviction and the sentence 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, he was unable to find any arguable grounds for reversal. This court granted defendant an opportunity to file a supplemental brief, which she 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 her 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 March 17, 2009, defendant was charged by indictment with one count of aggravated assault, a class three dangerous felony, in violation of Arizona Revised Statutes (A.R.S.) section 13-1204(A)(2) (2010).

¶5 On October 28, 2008, J.S., the victim, was eating breakfast at Tumbleweed, a shelter for the homeless, when he was approached by defendant and asked to charge her cell phone.

The victim attached the phone to the charger and went outside to talk with another friend. When defendant returned, she looked for her phone and found it missing. She accused the victim of stealing her phone.

¶16 The victim testified that defendant was "furious," and "very mad." A friend of defendant, Tiny, also questioned the victim on the whereabouts of defendant's phone. The argument lasted approximately twenty to thirty minutes.

¶17 The victim then walked outside of the shelter and immediately felt a sharp pain in his back. He turned and saw defendant standing with a knife. She repeatedly asked, "Where's my phone? Where's my phone?"

¶18 The victim testified that defendant then forced him to get onto a bus to go to CASS, another shelter for the homeless. While on the bus, the victim saw defendant place the knife in her backpack. The victim decided to "snatch" the backpack from defendant and a struggle ensued. Defendant hit the victim on the head to "keep her bag." The victim testified that once he had the backpack, he ran to the State Capitol Building and talked to a security guard. Defendant, however, followed the victim into the building, grabbed her backpack, and fled.

¶19 Soon thereafter, S.B. of the Capitol Police Department and J.S. of the Phoenix Fire Department arrived on the scene.

S.B. observed the victim without his shirt and saw a laceration 6-inches in length on his back.

¶10 R.G. of the Capitol Police Department observed a person matching the victim's description of defendant. She was walking "briskly," "watching our activity," and "constantly keeping a visual on us." The officer apprehended defendant and the victim positively identified her as his attacker.

¶11 After a three-day trial, the jury found defendant guilty as charged. The trial court sentenced defendant to a mitigated term of five years in prison with 53 days of presentence incarceration credit.

¶12 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 she was convicted.

¶13 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 her future options,

