

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



DIVISION ONE
FILED: 10-07-2010
RUTH WILLINGHAM,
ACTING CLERK
BY: GH

**IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE**

STATE OF ARIZONA,) 1 CA-CR 10-0007
)
Appellee,) DEPARTMENT E
)
v.) **MEMORANDUM DECISION**
) (Not for Publication -
JAMES WILLIAM VICKERMAN,) Rule 111, Rules of the
) Arizona Supreme Court)
Appellant.)
)

Appeal from the Superior Court in Maricopa County

Cause No. CR2009-106148-001 DT

The Honorable James T. Blomo, Judge Pro Tem

AFFIRMED

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

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

I R V I N E, Judge

¶1 This appeal is filed in accordance with *Anders v. California*, 386 U.S. 738 (1967) and *State v. Leon*, 104 Ariz.

297, 451 P.2d 878 (1969). Counsel for James William Vickerman asks this court to search the record for fundamental error. Vickerman was given an opportunity to file a supplemental brief in propria persona, but he has not done so. After reviewing the record, we affirm his conviction and sentence for aggravated assault.

FACTS AND PROCEDURAL HISTORY

¶2 We view the facts in the light most favorable to sustaining the trial court's judgment and resolve all reasonable inferences against Vickerman. *State v. Fontes*, 195 Ariz. 229, 230, ¶ 2, 986 P.2d 897, 898 (App. 1998).

¶3 On October 11, 2007, the victim went to Vickerman's house wearing a baseball cap that belonged to Vickerman's friend. When the victim entered the garage, a mutual friend grabbed the cap off his head. Vickerman laughed and taunted the victim, saying, "I told you you should have given the hat back." The victim told him to shut up and turned to leave. Vickerman screamed, "Don't tell me to shut up in my own house." He punched the victim in the face, knocking out two front teeth. Later, he told his brother that he punched the victim "[f]or being a smart-ass."

¶4 The State charged Vickerman with aggravated assault, a class 4 felony in violation of Arizona Revised Statutes ("A.R.S.") § 13-1204(A) (Supp. 2007). At the close of the

evidence, defense counsel requested a self-defense instruction, which was denied for insufficient evidence. The trial court properly instructed the jury on the elements of the offense. Vickerman was convicted as charged.

¶15 The trial court conducted the sentencing hearing in compliance with Vickerman's constitutional rights and Arizona Rule of Criminal Procedure 26. The trial court imposed a suspended sentence of two years' probation and ordered him to pay the victim restitution.

DISCUSSION

¶16 We review Vickerman's conviction and sentence for fundamental error. See *State v. Gendron*, 168 Ariz. 153, 155, 812 P.2d 626, 628 (1991). Counsel for Vickerman has advised this court that after a diligent search of the entire record, he has found no arguable question of law. The court has read and considered counsel's brief and fully reviewed the 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. So far as the record reveals, Vickerman was represented by counsel at all stages of the proceedings, and the sentence imposed was within the statutory limits. We decline to order briefing and affirm his conviction and sentence.

¶7 Upon the filing of this decision, defense counsel shall inform Vickerman of the status of his appeal and of his future options. Defense counsel has no further obligations 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, 684 P.2d 154, 156-57 (1984). Vickerman shall have thirty days from the date of this decision to proceed, if he desires, with a pro per motion for reconsideration or petition for review. On the court's own motion, we extend the time for Vickerman to file a pro per motion for reconsideration to thirty days from the date of this decision.

CONCLUSION

¶8 We affirm.

/s/

PATRICK IRVINE, Judge

CONCURRING:

/s/

DIANE M. JOHNSEN, Presiding Judge

/s/

PHILIP HALL, Judge