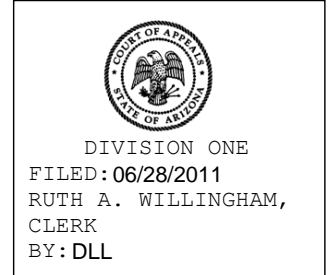


NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED
EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);
Ariz. R. Crim. P. 31.24

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE



STATE OF ARIZONA,) 1 CA-CR 10-0433
)
Appellee,) DEPARTMENT E
)
v.) **MEMORANDUM DECISION**
) (Not for Publication -
) Rule 111, Rules of the
SHAWN PATRICK KELLER,) Arizona Supreme Court)
)
Appellant.)
)

Appeal from the Superior Court in Maricopa County

Cause No. CR2009-138287-001DT

The Honorable Carolyn K. Passamonte, Judge Pro Tempore

AFFIRMED

Thomas C. Horne, 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 Terry J. Reid, Deputy Public Defender
Attorneys for Appellant

P O R T L E Y, Judge

¶1 This is an appeal under *Anders v. California*, 386 U.S.

738 (1967) and *State v. Leon*, 104 Ariz. 297, 451 P.2d 878

(1969). Counsel for Defendant Shawn Patrick Keller has advised us that, after searching the entire record, she has been unable to discover any arguable questions of law, and has filed a brief requesting us to conduct an *Anders* review of the record. Defendant was given an opportunity to file a supplemental brief, and has not filed one.

FACTS¹

¶2 Defendant drove his truck into a shopping center parking lot at 1:00 a.m. on May 23, 2008, and shut off the lights. Officer Buchanan, who was parked in the lot writing police reports, became suspicious because the shopping center businesses were closed. As Buchanan drove his patrol car toward Defendant's truck, Defendant drove out of the parking lot.

¶3 Buchanan followed him and noticed that Defendant made several wide turns, swerved and "accelerated at a high rate of speed." Defendant eventually parked the truck on a residential street. Buchanan pulled up behind the truck and saw Defendant leaning against the truck's front bumper.

¶4 Buchanan approached Defendant and noticed that he had bloodshot and watery eyes, had "a strong odor of intoxicating liquor from his [mouth]," and had slurred speech. Buchanan administered field sobriety tests and determined that Defendant

¹ We review the facts in the light most favorable to sustaining the verdict. See *State v. Guerra*, 161 Ariz. 289, 293, 778 P.2d 1185, 1189 (1989).

was impaired. Defendant later admitted that he had consumed six to eight alcoholic drinks.

¶15 Defendant was arrested for suspicion of driving under the influence ("DUI") and was taken to the police station where he agreed to breathalyzer tests. His blood-alcohol concentration was recorded to be 0.202 and 0.198 percent.

¶16 Defendant was subsequently indicted on two counts of aggravated DUI.² A jury heard the evidence, and convicted him as charged. Defendant received a suspended sentence with two years of supervised probation on one count, and was ordered to serve four months in prison with 30 days credit for presentence incarceration on the second count.

¶17 We have jurisdiction over this appeal pursuant to Article 6, Section 9, of the Arizona Constitution, and Arizona Revised Statutes ("A.R.S.") sections 12-120.21(A)(1) (2003), 13-4031, and -4033(A)(1) (2010).

DISCUSSION

¶18 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.

¶19 All of the proceedings were conducted in compliance with the Arizona Rules of Criminal Procedure. The record, as

² Defendant was indicted for aggravated DUI because his driver's license was suspended. *See* A.R.S. § 28-3473(A) (Supp. 2010).

presented, reveals that Defendant was represented by counsel at all stages of the proceedings, and the sentence imposed was within the statutory limits.

CONCLUSION

¶10 After this decision has been filed, counsel's obligation to represent Defendant in this appeal has ended. Counsel need do no more than inform Defendant of the status of the appeal and Defendant's 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, 585, 684 P.2d 154, 157 (1984). Defendant can, if desired, file a motion for reconsideration or petition for review pursuant to the Arizona Rules of Criminal Procedure.

¶11 Accordingly, we affirm Defendant's convictions and sentences.

/s/

MAURICE PORTLEY, Presiding Judge

CONCURRING:

/s/

LAWRENCE F. WINTHROP Judge

/s/

SHELDON H. WEISBERG, Judge