

**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: 09/29/2011
RUTH A. WILLINGHAM,
CLERK
BY: DLL

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

STATE OF ARIZONA,)
)
 Appellee,)
)
)
 v.)
)
 MARCEL D. HOLDEN,)
)
 Appellant.)
)

No. 1 CA-CR 10-0732
DEPARTMENT A
MEMORANDUM DECISION
(Not for Publication-
Rule 111, Rules of the
Arizona Supreme Court)

Appeal from the Superior Court of Maricopa County

Cause No. CR2009-006770-001 DT

The Honorable John R. Hannah, Judge

AFFIRMED

Thomas C. Horne, Attorney General Phoenix
By Kent E. Cattani, Chief Counsel
Criminal Appeals Section
Attorneys for Appellee

James J. Haas, Maricopa County Public Defender Phoenix
By Thomas K. Baird, Deputy Public Defender
Attorneys for Appellant

T H O M P S O N, Judge

¶1 This case comes to us as 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 Marcel D. Holden (defendant) has advised us that, after searching the entire record, he has been unable to discover any arguable questions of law and has filed a brief requesting this court conduct an *Anders* review of the record. Defendant has been afforded an opportunity to file a supplemental brief *in propria persona*, and he has not done so.

¶2 Around 2 a.m. defendant discovered his car had been broken into after leaving the apartment of L.W., whom defendant claimed was a prostitute, and her roommate. Suspecting the involvement of L.W. defendant went back to her apartment. An altercation ensued. During the altercation the defendant displayed a gun. L.W. ran and hid in the bathroom with her roommate both fearing for their lives. Defendant kicked a hole in the bathroom door. The defendant left the apartment and drove away when he heard L.W. talking on the phone to the police.

¶3 Shortly after L.W. called 911 an officer noticed the defendant's car based upon the description provided by L.W. Defendant noticeably sped up when the officer began to follow him. The officer used the marked police car's lights and siren. Defendant did not pull over and continued until he could not see police following him.

¶4 Defendant ran from his car and knocked on the door of a random apartment belonging to a stranger, M.B. When no one answered, defendant kicked the door open and went inside. M.B. called the police after waking up and seeing the defendant.

¶5 Defendant left M.B.'s apartment in police custody. The police searched defendant and discovered a bag containing marijuana in defendant's pocket.

¶6 Defendant was charged with one count of burglary, two counts of aggravated assault, one count of unlawful flight from law enforcement, one count of criminal trespass, and one count of possession or use of marijuana. The aggravated assault counts included a lesser offense of disorderly conduct. Defendant was convicted after a jury trial of two counts of disorderly conduct, unlawful flight, criminal trespass, and possession of marijuana. Defendant was sentenced concurrently to 4.25 years for each disorderly conduct, 1.5 years for unlawful flight, 1 year for criminal trespass, and 1 year for possession. Defendant received 330 days presentence incarceration credit. Defendant timely appealed.

¶7 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, and the sentence imposed was within the

statutory limits. Pursuant to *State v. Shattuck*, 140 Ariz. 582, 584-85, 684 P.2d 154, 156-57 (1984), defendant's counsel's obligations in this appeal are at an end.

¶8 We affirm the convictions and sentences.

/s/

JON W. THOMPSON, Judge

CONCURRING:

/s/

DIANE M. JOHNSEN, Presiding Judge

/s/

MARGARET H. DOWNIE, Judge