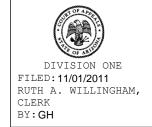
NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.

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,)	No. 1 CA-CR 11-0274
)	1 CA-CR 11-0275
		Appellee,)	(Consolidated)
)	
)	DEPARTMENT A
	v.)	
)	MEMORANDUM DECISION
LESTER MI	CHAEL TUNN	TUNNEY,		(Not for Publication-
)	Rule 111, Rules of the
		Appellant.)	Arizona Supreme Court)
)	

Appeal from the Superior Court in Coconino County

Cause No. S0300-CR2010-00631 S0300-CR2010-00897

The Honorable Jacqueline Hatch, Judge

AFFIRMED

Thomas C. Horne, Arizona Attorney General

By Kent E. Cattani, Chief Counsel

Criminal Appeals/Capital Litigation Section

Attorneys for Appellee

Coconino County Public Defender

By H. Allen Gerhardt, Coconino Public Defender

Attorney for Appellant

THOMPSON, Judge

 $\P 1$ 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 Lester Michael Tunney (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 propia persona, and he has not done so.
- DUI. The trial court found defendant had three historical priors in an aggravation/mitigation hearing. Defendant was sentenced to concurrent 10 year sentences in prison for each aggravated DUI charge in accordance with the enhancement provisions of Arizona Revised Statute (A.R.S.) section 13-703(C) (2010), and he received 233 days of presentence incarceration credit. Defendant made a motion to modify the sentence under Arizona Rule of Criminal Procedure 24.3, claiming the court should have found only one historical prior. With one historical prior, defendant's sentence would be subject to enhancement by A.R.S § 13-703(B)(2) not § 13-703(C). The trial court denied the motion. Defendant timely appealed.
- 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.

 $\P 4$ We affirm the sentences.

/s/				
JON	W.	THOMPSON,	Judge	

CONCURRING:

/s/ DIANE M. JOHNSEN, Presiding Judge

/s/ MARGARET H. DOWNIE, Judge