

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: 11/29/2011
RUTH A. WILLINGHAM,
CLERK
BY: DLL

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

STATE OF ARIZONA,) No. 1 CA-CR 11-0288
)
Appellee,) DEPARTMENT D
)
) **MEMORANDUM DECISION**
v.) (Not for Publication-
) Rule 111, Rules of the
ERIC EUGENE LEIPHART,) Arizona Supreme Court)
)
Appellant.)
_____)

Appeal from the Superior Court of Maricopa County

Cause No. CR2010-130523-001 SE

The Honorable Glenn M. Davis, Judge

AFFIRMED

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

James J. Haas, Maricopa County Public Defender Phoenix
By Paul J. Prato, Deputy Public Defender
Attorneys for Appellant

T H O M P S O N, Presiding 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 Eric Eugene Leiphart (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 Defendant and the victim's mother married in March 2005. One evening in the fall of 2005, defendant asked victim, then five years old, to go to her bedroom with him. Defendant proceeded to lock the door, expose his genitals, and touch the victim's genitals with his hand. Defendant told the victim that he would kill her mother and hurt her if she told anyone.

¶3 Victim waited until June 2010 before she told her mother and grandparents about the incident. Her grandfather called the police and the police transported defendant to the police station. Defendant admitted to touching the victim while being interviewed by the police.

¶4 Defendant was charged with one count of kidnapping, a class 2 felony and dangerous crime against children, one count of indecent exposure, a class 6 felony, one count of molestation of a child, a class 2 felony and dangerous crime against children, one count of attempted molestation of a child, a class 3 felony and dangerous crime against children, and one count of

threatening or intimidating, a class 1 misdemeanor. The third count, molestation of a child, included the lesser offense of attempted molestation of a child, a dangerous crime against children. After a jury trial, defendant was convicted of the lesser offense of attempted molestation of a child, a class 3 felony and a dangerous crime against children. The trial court suspended the imposition of sentencing and placed defendant on lifetime probation. As a condition of his probation, the trial court ordered defendant to serve 297 days in jail, with credit for 297 days of presentence incarceration. Defendant timely appealed.

¶5 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.

¶6 We affirm the conviction and imposition of probation.

JON W. THOMPSON, Presiding Judge

CONCURRING:

MAURICE PORTLEY, Judge

JOHN C. GEMMILL, Judge