

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: 12/08/2011
RUTH A. WILLINGHAM,
CLERK
BY: DLL

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

STATE OF ARIZONA,)
) No. 1 CA-CR 11-0385
)
 Appellee,) DEPARTMENT C
)
 v.) **MEMORANDUM DECISION**
)
 DARRELL SHREVE,) (Not for Publication -
) Rule 111, Rules of the
 Appellant.) Arizona Supreme Court)
)
)

Appeal from the Superior Court in Navajo County

Cause No. CR-2009-416

The Honorable Carolyn C. Holliday, Judge

AFFIRMED

Thomas C. Horne, Arizona Attorney General Phoenix
by Kent E. Cattani, Chief Counsel,
Criminal Appeals/Capital Litigation Section
Attorneys for Appellee

Coronado & LaBarge Law Group Snowflake
by Emery LaBarge
Attorneys for Appellant

H A L L, Judge

¶1 Darrell Shreve (defendant) appeals from his convictions and the sentences imposed. For the reasons set forth below, we affirm.

¶2 Defendant's appellate counsel filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967), and *State v. Leon*, 104 Ariz. 297, 451 P.2d 878 (1969), advising that, after a diligent search of the record, he was unable to find any arguable grounds for reversal. This court granted defendant an opportunity to file a supplemental brief, which he has not done. See *State v. Clark*, 196 Ariz. 530, 537, ¶ 30, 2 P.3d 89, 96 (App. 1999).

¶3 We review for fundamental error, error that goes to the foundation of a case or takes from the defendant a right essential to his defense. See *State v. King*, 158 Ariz. 419, 424, 763 P.2d 239, 244 (1988). We view the evidence presented at trial in a light most favorable to sustaining the verdict. *State v. Cropper*, 205 Ariz. 181, 182, ¶ 2, 68 P.3d 407, 408 (2003).

¶4 Defendant was charged by indictment with the following: one count of participating in a criminal syndicate, a class two felony; two counts of conducting a chop shop, class two felonies; one count of trafficking in stolen property in the

first degree, a class three felony; nine counts of theft, class two felonies; and three counts of theft, class three felonies.

¶15 The following evidence was presented at trial. In May 2008, defendant entered into a rental agreement with D.F. of Smith Moulding to lease a facility to park and work on his trucks.

¶16 In September 2008, defendant met T.H. at the Country Corner in Taylor. Defendant asked T.H. if he would "haul stuff." T.H. said "[y]eah, I'm disabled, I can't lift a lot." T.H. testified that defendant gave him a maroon Peterbilt and said "just help us get it painted . . . , we'll put you on the road so you can earn some money." Defendant later contacted T.H. and asked "[c]an we put - if we pay you some rent, can we put this stuff out at your place until we get another shop." T.H. thought defendant was "honest," so he said "[o]kay, you can bring the stuff out."

¶17 On September 13, 2008, Officer Steve Iker, of the Arizona Department of Public Safety, was dispatched to a report of a semi-truck blocking the highway. The officer asked defendant, the driver, where he was going and defendant could not provide a name or address and simply stated that he was "heading to Snowflake." The officer also asked defendant where he got the truck and he responded "he wasn't sure."

¶18 Because defendant's demeanor and responses seemed "off," Officer Iker ran the vehicle's information "through [the] HOP" and discovered that the semi-truck was stolen. The officer then placed defendant under arrest and searched his person. The officer found master keys for a Peterbilt truck, a Caterpillar, and Kenworth keys.

¶19 In January 2009, Detective Brian McNulty, of the Arizona Department of Public Safety, served search warrants on Smith Moulding and the Pine Lane Property owned by T.H. The detective found numerous stolen vehicles on the properties.

¶10 After a three-day trial, the jury found defendant guilty of one count of participating in a criminal syndicate, two counts of conducting a chop shop, one count of trafficking in stolen property in the second degree, and nine counts of theft. The trial court effectively sentenced defendant to 7.5 years in prison on the counts with 72 days presentence incarceration credit.¹

¶11 We have read and considered counsel's brief and have searched the entire record for reversible error. See *Leon*, 104

¹ For the counts of theft, the jury returned verdicts of guilty on both the greater and lesser-included offenses and the trial court dismissed the lesser-included verdicts pursuant to the State's oral motion. See *State v. Brown*, 191 Ariz. 102, 103, 952 P.2d 746, 747 (App. 1997) (holding trial court did not commit fundamental error by vacating lesser-included verdicts as surplusage when jury reconfirmed verdicts and defense counsel failed to request further deliberation).

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. Defendant was given an opportunity to speak before sentencing, and the sentences imposed were within statutory limits. Furthermore, based on our review of the record, there was sufficient evidence for the jury to find that defendant committed the offenses for which he was convicted.

¶12 After the filing of this decision, counsel's obligations pertaining to defendant's representation in this appeal have ended. Counsel need do no more than inform defendant of the status of the appeal and his 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, 584-85, 684 P.2d 154, 156-57 (1984). Defendant has thirty days from the date of this decision to proceed, if he desires, with a pro per motion for

reconsideration or petition for review. Accordingly,
defendant's convictions and sentences are affirmed.

_____/s/_____
PHILIP HALL, Judge

CONCURRING:

_____/s/_____
MICHAEL J. BROWN, Presiding Judge

_____/s/_____
PATRICIA K. NORRIS, Judge