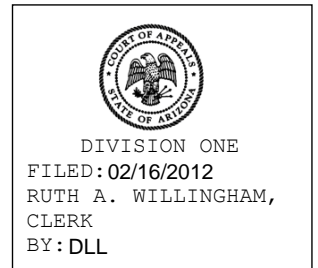


NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED  
EXCEPT AS AUTHORIZED BY APPLICABLE RULES.  
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);  
Ariz. R. Crim. P. 31.24



IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION ONE

STATE OF ARIZONA, )  
 ) No. 1 CA-CR 11-0458  
 )  
 Appellee, ) DEPARTMENT E  
 )  
 v. ) **MEMORANDUM DECISION**  
 )  
 LEYA MARIE HILLAN, ) (Not for Publication -  
 ) Rule 111, Rules of the  
 Appellant. ) Arizona Supreme Court)  
 )  
 )

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Appeal from the Superior Court in Maricopa County

Cause No. CR2008-031201-001

The Honorable Robert L. Gottsfield, Judge

**AFFIRMED**

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

Michael J. Dew Phoenix  
Attorney for Appellant

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**H A L L**, Judge

¶1 Leya Marie Hillan (defendant) appeals from her 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 she 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 On March 3, 2009, defendant was charged by indictment with count one: taking identity of another, a class four felony, and count two: aggravated taking identity of another, a class three felony.

¶5 The following evidence was presented at trial.

¶16 On December 15, 2007, an employee of J.C. Penney's contacted Michelle N. to verify a withdrawal on her account. Michelle responded that she did not authorize the account to be opened. After checking online, Michelle discovered that "ten accounts were opened in [her] name," including an Apple account. Michelle contacted Apple to cancel the account, but was informed that a camera and an iPod had already been shipped to an address in her neighborhood.

¶17 Michelle contacted the Gilbert Police Department and Detective Garth McClellan was assigned to investigate. On December 18, 2007, Detective McClellan obtained a search warrant for defendant's residence. During the search, the detective found a FedEx box containing manuals for a Canon camera and the order slip, checkbooks in the name of Christina W., a debit card and driver license in the name of Courtney L., and an overdraft notice in the name of Connie and James S. Detective McClellan then placed defendant under arrest.

¶18 Courtney L., Christine W., and Connie S. testified that they did not know defendant and that she was not authorized to have financial documents in their names.

¶19 After a three-day trial, the jury found defendant guilty as charged. Defendant stipulated to one prior felony

conviction.<sup>1</sup> The trial court sentenced defendant to a mitigated term of 2.25 years on count one and a mitigated term of 3.5 years on count two to be served concurrently with count one. Defendant was given 34 days of presentence incarceration credit.

¶10 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. 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 she was convicted.

¶11 After the filing of this decision, counsel's obligations pertaining to defendant's representation in this

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<sup>1</sup> When accepting defendant's stipulation, the trial court did not conduct a formal colloquy consistent with Arizona Rule of Criminal Procedure 17.6. A formal colloquy includes the nature of the charge to which the plea is offered, the range of the possible sentence, and the constitutional rights that the defendant foregoes. See Ariz. R. Crim. P. 17.2. In *State v. Morales*, 215 Ariz. 59, 62, ¶ 11, 157 P.3d 479, 482 (2007), our supreme court held that the absence of an adequate Rule 17.6 colloquy does not automatically entitle a defendant to resentencing. Instead, the defendant must establish prejudice by showing that she would not have admitted to the prior conviction had the court conducted the colloquy. *Id.* Even if prejudice is shown, resentencing is not required if uncontested evidence proving defendant's prior conviction is in the record. *Id.* at ¶ 13. Here, the record contains the certified minute entry from the sentencing of the prior conviction. Thus, resentencing is not required.

appeal have ended. Counsel need do no more than inform defendant of the status of the appeal and her 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 she 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/ \_\_\_\_\_

PATRICIA A. OROZCO, Presiding Judge

\_\_\_\_\_  
\_ /s/ \_\_\_\_\_

JOHN C. GEMMILL, Judge