IN THE

ARIZONA COURT OF APPEALS

DIVISION TWO

THE STATE OF ARIZONA,
Appellee,

v.

KENNETH CARL BEATTY,
Appellant.

No. 2 CA-CR 2015-0391
Filed August 26, 2016

THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
NOT FOR PUBLICATION
See Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Crim. P. 31.24.

Appeal from the Superior Court in Cochise County
No. CR201400381
The Honorable John F. Kelliher Jr., Judge

AFFIRMED AS CORRECTED

COUNSEL

Daniel J. DeRienzo, Prescott Valley
Counsel for Appellant

MEMORANDUM DECISION

Judge Espinosa authored the decision of the Court, in which Presiding Judge Howard and Judge Staring concurred.

E S P I N O S A, Judge:

¶1 Following a jury trial, appellant Kenneth Beatty was convicted of second-degree trafficking in stolen property, a lesser-included offense of first-degree trafficking in stolen property. The trial court suspended the imposition of sentence and placed Beatty on intensive probation for three years.[1] Counsel has filed a brief in compliance with *Anders v. California*, 386 U.S. 738 (1967), avowing he has reviewed the entire record and found no "error or arguable questions of law" to raise on appeal, and asking that we search the record for reversible error. In compliance with *State v. Clark*, 196 Ariz. 530, ¶ 32, 2 P.3d 89, 97 (App. 1999), counsel has also provided "a detailed factual and procedural history of the case with citations to the record, [so] this court can satisfy itself that counsel has in fact thoroughly reviewed the record." Beatty has not filed a supplemental brief.

¶2 Viewing the evidence in the light most favorable to upholding the jury's verdict, *see State v. Tamplin*, 195 Ariz. 246, ¶ 2, 986 P.2d 914, 914 (App. 1999), the evidence established that in September 2012, the victim returned home to find his "Ryobi . . . and Craftsman tool set[s]" missing from the tool shed in his carport. "A day or two later," the victim saw tools matching the description of the ones stolen from him for sale on a classified advertisement website; he notified the police. In October 2012, an undercover

[1]After the trial court granted Beatty's motion to sever, he pled guilty to possession of a narcotic drug, for which the court imposed a three-year term of intensive probation to be served concurrently with the term of probation imposed in the matter before us on appeal.

police officer purchased tools from Beatty, which the victim later identified as the ones stolen from his carport. We conclude substantial evidence supported Beatty's conviction, *see* A.R.S. §§ 13-2307(A), 13-2301(B)(2), (3), 13-105(10)(c), and the probation imposed is an authorized disposition, *see* A.R.S. §§ 13-902(A)(2); 13-2307(C).

¶3 However, in our review of the record pursuant to *Anders*, we noticed that the sentencing minute entry mistakenly lists the wrong date for the offense, which should be on or about October 4, 2012, rather than September 23, 2012. Because it is clear from the record, including the trial court's order granting the state's uncontested motion to modify the indictment and the officer's testimony at trial that this offense occurred on or about October 4, 2012, the sentencing minute entry shall be corrected accordingly. *See State v. Vandever*, 211 Ariz. 206, ¶ 16, 119 P.3d 473, 477 (App. 2005) (appellate court must correct inadvertent error in sentencing minute entry); *see also State v. Lopez*, 230 Ariz. 15, n.2, 279 P.3d 640, 643 n.2 (App. 2012) ("When we can ascertain the trial court's intent from the record, we need not remand for clarification.").

¶4 Pursuant to our obligation under *Anders*, we have reviewed the record in its entirety and considered all potential issues, including the ones to which counsel has drawn our attention but characterized as lacking merit. *See State v. Fuller*, 143 Ariz. 571, 575, 694 P.2d 1185, 1189 (1985) (*Anders* requires court to search for fundamental error); *State v. Leon*, 104 Ariz. 297, 299, 451 P.2d 878, 880 (1969) (counsel may refer in *Anders* brief "to anything in the record that might arguably support the appeal"), *quoting Anders*, 386 U.S. at 744. Having found no fundamental, reversible error, we affirm Beatty's conviction and disposition but correct the sentencing order consistent with this decision.