

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.

FILED BY CLERK
OCT 22 2009
COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

THE STATE OF ARIZONA,)	
)	
Appellee,)	2 CA-CR 2009-0057
)	2 CA-CR 2009-0058
)	(Consolidated)
v.)	DEPARTMENT B
)	
JEREMIAH NICHOLAS CARLOCK,)	<u>MEMORANDUM DECISION</u>
)	Not for Publication
Appellant.)	Rule 111, Rules of
_____)	the Supreme Court

APPEAL FROM THE SUPERIOR COURT OF GILA COUNTY

Cause Nos. CR20070456 and CR20080119

Honorable Robert Duber II, Judge

AFFIRMED

Emily Danies

Tucson
Attorney for Appellant

V Á S Q U E Z, Judge.

¶1 Pursuant to a plea agreement entered in October 2007, appellant Jeremiah Carlock was convicted in CR 2007-0456 of aggravated assault and disorderly conduct with a weapon. The trial court suspended the imposition of sentence and placed Carlock on

probation. Pursuant to a plea agreement in CR 2008-0119, Carlock pled guilty in June 2008 to aggravated driving under the influence of an intoxicant. He was placed on probation in that cause as well.

¶2 In January 2009, the state filed petitions to revoke probation in both causes, alleging Carlock had committed aggravated assault, burglary, conspiracy to commit armed robbery, attempted armed robbery, and burglary/collection by means of extortion. The state subsequently filed an “addendum” to the petitions, amending its allegations Carlock had violated probation “by committing the crime of Threats and Intimidation.” See A.R.S. § 13-1202 (defining offense of threatening or intimidating). Pursuant to the state’s motion, the trial court dismissed the petitions and proceeded on the addenda only. After a violation hearing held in both causes, the court revoked probation and sentenced Carlock to presumptive, concurrent, one-year prison terms in CR 2007-0456 and to the presumptive, 2.5-year term of imprisonment in CR 2008-0119, to be served consecutively to the terms imposed in CR 2007-0456. Carlock has appealed from the sentences in both causes and, pursuant to his motion, we have consolidated the appeals. Counsel has filed a brief in compliance with *Anders v. California*, 386 U.S. 738 (1967), and *State v. Clark*, 196 Ariz. 530, 2 P.3d 89 (App. 1999), avowing she has found “[n]o arguable question of law” and asking this court to search the record for fundamental error. Carlock has not filed a supplemental brief.

¶3 We have reviewed the entire record and find ample evidence to support the trial court’s finding that Carlock violated probation in both causes by committing the offense of threatening and intimidating “by words and conduct.” The record includes testimony presented at the violation hearing, the victims’ written statements to police officers, and a digital video recording of a City of Globe police officer’s interview of the two victims and a third witness. The latter witness was among the group of individuals, including Carlock, who had entered the victims’ home. The evidence established Carlock had gone to the home because of an ongoing conflict with one of the victims over money, had entered the home wielding a stick, and had threatened both victims. We have found no error that could be characterized as fundamental and prejudicial. *See State v. Henderson*, 210 Ariz. 561, ¶¶ 19-20, 115 P.3d 601, 607-08 (2005). Additionally, the sentences are well within statutory limits, and the court did not err fundamentally or otherwise in imposing the presumptive prison terms. Therefore, we affirm the court’s orders revoking Carlock’s probationary terms in both causes and sentencing him to prison.

GARYE L. VÁSQUEZ, Judge

CONCURRING:

PETER J. ECKERSTROM, Presiding Judge

J. WILLIAM BRAMMER, JR., Judge