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COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

THE STATE OF ARIZONA, Appellee, v. VINCENT ALPHONSO POWELL, Appellant.	2 CA-CR 2009-0350 DEPARTMENT A MEMORANDUM DECISION Not for Publication Rule 111, Rules of the Supreme Court

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR20071727

Honorable Howard Fell, Judge Pro Tempore

AFFIRMED

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B R A M M E R, Presiding Judge.

¶1 Vincent Alphonso Powell appeals from his convictions and sentences for two counts of armed robbery, one count of aggravated assault, and one count each of first

and third-degree burglary. He asserts the trial court erred by finding him competent to stand trial and by finding he voluntarily had absented himself from trial. He further argues that, because he was tried in absentia, there was insufficient evidence identifying him as the man arrested for the charged crimes. Finally, he contends the court erred by sentencing him to life imprisonment and ordering him to pay restitution to the Pima County Victim Compensation Fund. Finding no error, we affirm.

Factual and Procedural Background

¶2 On appeal, we view the facts in the light most favorable to sustaining the verdict. *See State v. Haight-Gyuro*, 218 Ariz. 356, ¶ 2, 186 P.3d 33, 34 (App. 2008). On April 14, 2007, Powell entered a convenience store and ordered the clerk to give him money. Powell insinuated he had a gun and, although the clerk never saw a gun, he gave Powell money from the cash register. Two weeks later, Powell entered another convenience store. He carried a carton of beer to the counter, placed his hand under his shirt, pointed his fingers at the clerk as if he had a gun, and told the clerk to give him all her money. The clerk testified she did not feel threatened and therefore began to pick up the beer and place it behind the counter. Powell then pulled a knife out of his pocket and "thrust[] it towards" the clerk. The two struggled and Powell came behind the counter and cut the clerk on her thumb, chin, and ear. He also choked her and pulled her hair. She escaped and called police, who found Powell nearby. An officer took the clerk to Powell and she identified him as the man who had assaulted her. The clerk's blood subsequently was found on Powell's clothing.

¶3 Powell was charged with aggravated assault with a deadly weapon or dangerous instrument, first-degree burglary, third-degree burglary, and two counts of armed robbery. On February 8, 2008, the trial court ordered Powell examined to determine whether he was competent to stand trial. Pursuant to Rule 11.5, Ariz. R. Crim. P., the parties stipulated that the court could rely on a psychological evaluation finding Powell incompetent and on April 11, the court determined Powell was not competent to stand trial, ordering him to participate in a restoration program and take all prescribed medications.

¶4 The trial court held a competency hearing on November 3, 2008. The parties stipulated the court could determine Powell's competency based "on the final competency report from the [restoration program]." That report was prepared by Dr. Debra Joseph on October 31, 2008; she concluded Powell was both malingering and "capable of assisting his attorney in a rational and factual manner if he chooses to do so." The court determined Powell was competent to proceed with trial.

¶5 On the first day of trial, Powell was disruptive and the trial court ordered him removed from the courtroom. The court determined Powell had absented himself voluntarily, and trial proceeded in his absence. After four days, the jury found Powell guilty of all counts and found the first-degree burglary, aggravated assault, and one of the armed robbery counts were dangerous offenses. The court sentenced Powell to three concurrent terms of life imprisonment without the possibility of parole for twenty-five years for the aggravated assault and armed robbery convictions. It also sentenced him to

presumptive, concurrent prison terms of ten and 11.25 years for the third- and first-degree burglary convictions, respectively. This appeal followed.

Discussion

Competency to Stand Trial

¶6 Powell first asserts the trial court erred in finding him competent to stand trial. *See Pate v. Robinson*, 383 U.S. 375, 378 (1966) (forcing incompetent defendant to stand trial violates due process); *see also* Ariz. R. Crim. P. 11.1 ("A person shall not be tried . . . while, as a result of a mental illness, defect, or disability, the person is unable to understand the proceedings against him or her or to assist in his or her own defense."). We review a trial court's competency determination for an abuse of discretion. *State v. Glassel*, 211 Ariz. 33, ¶ 27, 116 P.3d 1193, 1204 (2005); *see also Bishop v. Superior Court*, 150 Ariz. 404, 409, 724 P.2d 23, 28 (1986) (determination of competency "always and exclusively" question for trial court), and will affirm such a competency determination if supported by reasonable evidence, considering that evidence in the light most favorable to sustaining the court's finding. *Glassel*, 211 Ariz. 33, ¶ 27, 116 P.3d at 1204.

¶7 A defendant is competent to stand trial if he "has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding and . . . has a rational as well as factual understanding of the proceedings against him." *Dusky v. United States*, 362 U.S. 402, 402 (1960). The presence of a mental illness alone "is not grounds for finding a defendant incompetent to stand trial." Ariz. R. Crim. P. 11.1; *see State v. Moody*, 208 Ariz. 424, ¶ 56, 94 P.3d 1119, 1139 (2004). Rather, the test for

competency is whether a mental illness renders a criminal defendant "unable to understand the proceedings against him or her or to assist in his or her own defense." Ariz. R. Crim. P. 11.1; *see Glassel*, 211 Ariz. 33, ¶ 30, 116 P.3d at 1204; *Moody*, 208 Ariz. 424, ¶ 56, 94 P.3d at 1139.

¶8 The essential thrust of Powell's argument is that the trial court erred in finding him competent to stand trial after initially finding him incompetent and no evaluator's report determined he had been restored to competency by treatment or medication. He reasons that Joseph's report, upon which the court had relied, merely concluded he had been "exhibiting the same signs and symptoms, but found them to be signs of malingering." But Powell cites no authority, and we find none, supporting the proposition that a defendant found incompetent may later be found competent only if the court has been provided evidence that the defendant has been restored to competency by treatment, and that evidence the defendant had been exaggerating or falsifying symptoms of a mental illness alone is insufficient.[1]

¶9 Of the two competency evaluations generated before April 11, the date the trial court initially had found Powell incompetent, one concluded Powell was incompetent and the other found he was malingering. But the evaluation finding him

[1]A prior finding of incompetency, however, does give rise to a rebuttable presumption of continued incompetency. *State v. Blazak*, 110 Ariz. 202, 204, 516 P.2d 575, 577 (1973). Because trial courts are assumed to know and follow the law, *see State v. Johnson*, 212 Ariz. 425, ¶ 21, 133 P.3d 735, 742 (2006), we assume the trial court was aware of that presumption here. But the presumption does not preclude a trial court from considering and relying upon subsequent evaluations concluding the defendant's symptoms that led to the initial incompetency finding had been exaggerated or were false.

incompetent also found malingering as a provisional diagnosis and noted further observation was required "to help determine the extent to which [Powell] may be malingering to escape criminal prosecution." None of the intervening status reports ruled out malingering as a diagnosis.

¶10 In her most recent competency evaluation of Powell on October 31, 2008, Joseph concluded he was malingering "to avoid criminal responsibility and/or incarceration" and was able to understand the proceedings against him and assist in his defense. That report is consistent with the previous evaluation reports, in which the evaluator either determined Powell was malingering or declined to reject that diagnosis. And, as the state correctly notes, Powell stipulated the trial court could rely on Joseph's report in making its competency determination. Thus, we find no error in the court's conclusion on November 3, 2008, that Powell was competent to stand trial.

¶11 Powell also asserts the trial court erred in rejecting his subsequent requests for a new competency determination. A trial court is required to order a psychological examination of a defendant only if reasonable grounds exist to question whether the defendant is competent. *See State v. Kuhs*, 223 Ariz. 376, ¶ 13, 224 P.3d 192, 196 (2010). And when the court has presided over an initial Rule 11 proceeding, it does not abuse its discretion by considering evidence presented at that hearing when it denies a subsequent Rule 11 motion. *See Kuhs*, 223 Ariz. 376, ¶ 16, 224 P.3d at 196; *Moody*, 208 Ariz. 424, ¶ 48, 94 P.3d at 1138 ("[I]f a defendant has already been adjudicated competent, the court must be permitted to rely on the record supporting that previous adjudication.").

¶12 In January 2009, the trial court received two additional psychological evaluations addressing Powell's mental capacity at the time of his crimes. Neither report contradicted Joseph's finding that Powell had been exaggerating his symptoms to avoid prosecution. Indeed, both reports acknowledged Powell had a history of malingering and might have been exaggerating his symptoms. These reports therefore support the court's refusal to order a new competency evaluation.

¶13 Moreover, "[i]n determining whether reasonable grounds exist [for further competency evaluations or proceedings], a judge may rely, among other factors, on his own observations of the defendant's demeanor and ability to answer questions." *Moody*, 208 Ariz. 424, ¶ 48, 94 P.3d at 1138. After November 3, Powell appeared before the trial court at least eight times, and on six of those occasions he made statements to the court. Nothing in the court's minute entries for those appearances suggest Powell's conduct or demeanor was suspect and Powell has provided this court with transcripts of only four of those hearings.[2] Although Powell's statements at those hearings for which we have transcripts were unusual, they did not require the court to conclude he was unable to understand the proceedings or communicate with his attorney, particularly in light of the court's previous finding Powell was falsifying or exaggerating his symptoms. For example, at a May 22, 2009 hearing, Powell appeared in court with what appeared to be

[2]"It is within the defendant's control as to what the record on appeal will contain, and it is the defendant's duty to prepare the record in such a manner as to enable an appellate court to pass upon the questions sought to be raised in the appeal." *State v. Rivera*, 168 Ariz. 102, 103, 811 P.2d 354, 355 (App. 1990); *see also* Ariz. R. Crim. P. 31.8(b)(4). We must assume the missing transcripts support the trial court's ruling. *See Rivera*, 168 Ariz. at 103, 811 P.2d at 355.

ink markings on his face, claiming they were "[a] mask of protection." But that conduct, even assuming it was a byproduct of a mental illness and not malingering, does not suggest Powell did not understand the proceedings. And, at a June 22, 2009 hearing on one of Powell's motions for a new competency evaluation, he complained of auditory hallucinations and stated he could not remember the contents of letters he had written to his attorney. But he also stated he remembered sending the letters, understood he had been offered a plea agreement, and informed the court he had gone on a "medication strike" because of side effects he felt from the medication. And when the court instructed him to take his medications, Powell plainly understood those instructions.

¶14 At a hearing on his request for new counsel on March 30, 2009, Powell asserted he wanted a new attorney, claiming his assigned attorney "hate[d]" him and "used to be a police officer" that had arrested him when he was fifteen years old. Similarly, at a July 7, 2009 status conference, Powell again complained of auditory hallucinations and asserted his attorney was "part of the prosecution team" and should be "fired." But when the trial court explained it would not appoint him a new attorney and reminded him of his trial date, Powell apparently understood and accepted those statements. Moreover, Powell's accusations against his attorney are entirely consistent with his attempt to delay the start of trial by exaggerating or falsifying the symptoms of his mental illness.

¶15 Powell asserts, however, that *Maxwell v. Roe*, 606 F.3d 561 (9th Cir. 2010), is "similar" to this case and we should be guided by its reasoning. In *Maxwell*, the Ninth Circuit Court of Appeals granted habeas corpus relief to Maxwell, a California defendant,

finding unreasonable the trial court's decision to not order a competency evaluation sua sponte. *Id.* at 577. A different trial judge previously had found Maxwell competent, but concluded he was malingering. *Id.* at 569. Although Powell focuses on Maxwell's conduct in the trial court in support of his assertion his circumstances were similar, Maxwell's in-court conduct was not the focus of the Ninth Circuit's reasoning.

¶16 Maxwell had attempted suicide during trial and was placed by hospital staff on a seventy-two hour "psychiatric hold" or detention that later was extended to a two-week hold. *Id.* at 570-71. The Ninth Circuit noted that such holds are appropriate only "in the extreme instance where '[t]he professional staff of the facility providing evaluation services has found the person is, as a result of a mental disorder . . . a danger to others, or to himself or herself, or gravely disabled.'" *Id.* at 572, *quoting* Cal. Welf. & Inst. Code § 5250 (alterations in *Maxwell*). The Ninth Circuit concluded that, in light of the psychiatric holds, "[n]o reasonable judge . . . could have proceeded with the trial without doubting Maxwell's competency to stand trial." *Id.* at 573.

¶17 The Ninth Circuit also observed that, had the trial court conducted an additional competency hearing, it "would have discovered further information suggesting Maxwell's incompetence," specifically the reports from the psychiatric holds explicitly finding that Maxwell was "'actively psychotic'" and that he had been "involuntary [sic] administered heavy doses of [an] antipsychotic drug." *Id.* Additionally the appellate court noted that the report relied upon by the first trial judge, which concluded Maxwell had been malingering, was "thirteen months old," "was itself based on aging psychiatric

evaluations that were, by the time of Maxwell's trial, eighteen months old," and Maxwell's condition had deteriorated significantly in the intervening time. *Id.* at 575.

¶18 *Maxwell* is significantly distinguishable from the case before us. Nothing in the record suggests Powell's condition changed markedly in the time between the court's competency finding and trial. Nor does the record suggest there were later findings by treatment staff that would have permitted the inference Powell was incompetent. Indeed, as we noted above, later evaluations left open the possibility Powell was malingering. Powell has provided us no reasoned basis to conclude a trial court is required to order a new competency evaluation each time a malingering defendant exhibits unusual behavior.

¶19 Finally, we reject Powell's argument that his demeanor at sentencing, together with the trial court's decision to have him evaluated in another, later case to determine if he could be sentenced to a psychiatric hospital instead of imprisonment, suggest the court abused its discretion in finding Powell competent to stand trial. That Powell's demeanor at sentencing was not disruptive, of course, is entirely consistent with the prior diagnosis that he had been exaggerating or falsifying his symptoms to avoid trial. And, although the court apparently had ordered that Powell be evaluated in another case to determine his competency at the time of those offenses, the court observed that evaluation did not find Powell incompetent. Accordingly, for the reasons stated, the court did not abuse its discretion in rejecting Powell's numerous requests for additional competency evaluations.

Voluntary Absence

¶20 Powell next asserts his absence from trial was involuntary because he was not competent to waive his right to attend trial. Having already rejected Powell's incompetency premise, we necessarily reject this argument. The trial court warned Powell he would forfeit his right to be present if he engaged in disruptive conduct, *see* Ariz. R. Crim. P. 9.2(a) (disruptive defendant forfeits right to be present at trial), and Powell declined several invitations the court had extended to him during trial to appear. Thus, the court did not abuse its discretion in finding Powell had absented himself voluntarily from trial. *See State v. Jones*, 26 Ariz. App. 68, 73, 546 P.2d 45, 50 (1976) (trial court has "considerable latitude" to determine whether defendant should be removed from courtroom).

Sufficiency of Identification Evidence

¶21 Relying on *State v. Hall*, 136 Ariz. 219, 665 P.2d 101 (App. 1983), Powell argues he was entitled to a judgment of acquittal because the state failed to prove that he "is the same person as the man initially arrested for the crime[s]." In *Hall*, the defendant had absconded and was tried in absentia. *Id.* at 221, 665 P.2d at 103. Noting it is "axiomatic that the burden is always on the state to prove all of the elements of the crime and the identity of the person who committed the crime beyond a reasonable doubt," Division One of this court observed that "the only evidence produced at trial identifying the appellant as the assailant" was that the man fit a general description and had the same name—John Richard Hall. *Id.* The court determined, however, that there was sufficient evidence the man arrested was the assailant and thus, "[t]he real question is not whether

the evidence was sufficient to convict the John Richard Hall described but whether the John Richard Hall who was sentenced is the same person as the man initially arrested for the crime." *Id.* In concluding there was "no doubt" the appellant was the man arrested, the court noted:

> The John Richard Hall who was originally arrested was released on a bond posted by Dorothy Lee Hall, the wife of John Richard Hall, the man ultimately sentenced. William Kiger, counsel appointed for the John Richard Hall who was arrested, also appeared for the John Richard Hall who was sentenced. The judge who heard the description of the perpetrator at trial also saw the man sentenced and presumably the descriptions matched. When the judge asked if there was any legal cause why sentence should not be pronounced counsel for Mr. Hall responded in the negative. The man sentenced never objected to being sentenced or so much as intimated that he would later claim that he was not the person convicted of the crime. Had he done so it would have been incumbent upon the state to demonstrate at that time that the man sentenced was the same person who was initially arrested.

Id. at 221-22, 665 P.2d at 103-04.

¶22 Here, the man who was arrested was wearing a shirt stained with the second victim's blood and possessed documents identifying him as Vincent Alphonso Powell. Both victims identified that man as their assailant. Thus, like in *Hall*, there is sufficient evidence that the man arrested was the man who had committed the crimes. And Powell, like Hall, never suggested he was not the man arrested and charged with these crimes. Furthermore, the "Booking Information Summary" in this case stated the date of birth of the Vincent Alphonso Powell arrested was September 24, 1966, the same date of birth appearing on the evidence establishing Powell's previous convictions—evidence that

Powell did not challenge. In any event, there is even less doubt here than in *Hall* that Powell was the man arrested for these crimes. Powell was not released from custody pending trial and did not abscond—eliminating any theoretical risk law enforcement had arrested the wrong man before sentencing.

¶23 In addressing a similar issue in *State v. Rocha-Rocha*, 188 Ariz. 292, 295, 925 P.2d 870, 873 (App. 1996), Division One of this court observed:

> It is not enough to argue . . . that identification was lacking because the state did not put on proof that the man on trial . . . physically "matched" the man they arrested. Defendant made positive identification impossible by absenting himself from trial, and we decline to create a rigid legal standard for identification that would encourage defendants to violate their release conditions by failing to appear. At a minimum, defendant must assert that he is not the man who was arrested . . . . We have no reason to believe that the person convicted was anyone other than defendant, and in the absence of a claim to that effect we need not address this issue further.

Rocha-Rocha and *Hall* are not meaningfully distinguishable from this case. Nothing in the record suggests Powell was not the man arrested for these crimes, and ample evidence was presented that he had committed them.

Life Sentences

¶24 Powell next asserts the trial court erred by sentencing him to life terms of imprisonment for his armed robbery and aggravated assault convictions. Because Powell did not object to his sentence in the trial court, we review only for fundamental, prejudicial error. *See State v. Henderson*, 210 Ariz. 561, ¶¶ 19-20, 115 P.3d 601, 607 (2005). An illegal sentence, however, constitutes fundamental error. *State v. Zinsmeyer*, 222 Ariz. 612, ¶ 26, 218 P.3d 1069, 1080 (App. 2009). The court found Powell had five

previous armed robbery convictions, five previous robbery convictions, and one previous conviction for attempted robbery. The court determined that, because Powell had at least two prior convictions for serious crimes, it was required to sentence him to a life term of imprisonment for the aggravated assault and armed robbery counts pursuant to former A.R.S. § 13-604(S).[3] That subsection provides that an adult "who stands convicted of a serious offense . . . and who has previously been convicted of two or more serious offenses not committed on the same occasion shall be sentenced to life imprisonment."

¶25 Powell reasons that, because the jury did not find his crimes to be "serious offenses" under § 13-604(W)(4), and because his previous convictions had not been found to be serious offenses, § 13-604(S) did not apply. Powell relies on *State v. Nichols*, 201 Ariz. 234, 33 P.3d 1172 (App. 2001), in support of his proposition that whether a crime qualifies as a "serious offense" under § 13-604(W)(4) must be resolved by the jury. But that case does not address serious crimes under § 13-604(W)(4). It instead addresses enhanced sentences for serious drug offenses as provided by A.R.S. § 13-3410. *Nichols*, 201 Ariz. 234, ¶ 7, 33 P.3d at 1174. That statute provides that a defendant convicted of a serious drug offense, defined as the violation of certain statutes in Title 13, Chapter 34, shall be sentenced to life imprisonment if that person "committed the offense as part of a pattern of engaging in conduct prohibited by this chapter, which constituted a significant source of the person's income." § 13-3410(A). The statute defines "significant source of

[3]The Arizona criminal sentencing code has been amended and renumbered, *see* 2008 Ariz. Sess. Laws, ch. 301, §§ 1-120, effective "from and after December 31, 2008." *Id.* § 120. We refer in this decision to the statutes as they were worded and numbered at the time of the offenses. *See* 2005 Ariz. Sess. Laws ch. 188, § 1 (§ 13-604).

income" as income exceeding $25,000 in a calendar year. § 13-3410(D)(2). Thus, the statute requires an additional finding—the amount of income derived from violations of Chapter 34—that is not inherent in the jury's verdict finding a defendant guilty of the underlying crime. The court in *Nichols* therefore concluded a jury should determine whether a defendant's drug-sale income exceeded that statutory threshold. 201 Ariz. 234, ¶ 7, 33 P.3d at 1174; *see also Apprendi v. New Jersey*, 530 U.S. 466, 490 (2000) ("Other than the fact of a prior conviction, any fact that increases the penalty for a crime beyond the prescribed statutory maximum must be submitted to a jury, and proved beyond a reasonable doubt.").

¶26 In contrast, armed robbery and aggravated assault involving the use of a deadly weapon are listed as "serious offenses" under § 13-604(W)(4)(d) and (h) without any additional requirements. Thus, all the findings required to qualify those crimes as serious offenses are inherent in the jury's verdicts in this case and in Powell's previous convictions. No additional factual finding was required, and the trial court did not err in sentencing Powell pursuant to § 13-604.[4] *See Blakely v. Washington*, 542 U.S. 296, 303 (2004) (court may impose sentence on basis of facts "reflected in the jury verdict").

[4]Powell also argues the trial court erred by finding one of his armed robbery convictions to be a dangerous nature offense because, unlike his other convictions for armed robbery and aggravated assault, the verdict form did not require the jury to make that determination. Also, he asserts the court erred because the exhibits presented "demonstrated that each of his prior convictions were non-dangerous." We need not address these concerns. Whether any of Powell's convictions were of a dangerous nature is not relevant to his sentence under § 13-604(S), which requires only that the offenses be serious offenses pursuant to § 13-604(W)(4). *See State v. Leon*, 197 Ariz. 48, ¶ 6, 3 P.3d 968, 970 (App. 1999) (serious offenses not necessarily dangerous).

Restitution Payment

¶27 Finally, Powell claims the trial court lacked statutory authority to order him to pay $110.40 to Pima County's Victim Compensation Fund (PCVCF). Although Powell did not object below, he is entitled to fundamental error review, and the imposition of an illegal sentence is fundamental error. *See State v. Lewandowski*, 220 Ariz. 531, ¶ 4, 207 P.3d 784, 786 (App. 2009). We interpret statutes de novo and rely on their plain language as the best indicator of the legislature's intent. *State v. Streck*, 221 Ariz. 306, ¶¶ 3, 7, 211 P.3d 1290, 1291 (App. 2009). Additionally, we must harmonize related statutes. *State v. Buhman*, 181 Ariz. 52, 55, 887 P.2d 582, 585 (App. 1994).

¶28 Powell contends a county crime victim compensation fund may contain only money distributed to it pursuant to A.R.S. § 12-286(D), and that a trial court may not order a defendant to make a direct payment into such a fund. He reasons that, because PCVCF was created by A.R.S. § 11-538(A), it may only be funded by way of § 12-286(D), which provides that the statewide victim compensation fund allocates to county funds, such as PCVCF, the interest earned on money held in trust.

¶29 We first observe that Powell's reading of the statute would limit severely the compensation of crime victims by restricting the compensation's source solely to the interest on a state trust fund. We avoid absurd readings of statutes, *see State v. Young*, 223 Ariz. 447, ¶ 26, 224 P.3d 944, 950 (App. 2010), and construe victim compensation statutes consistently with the legislative intent to compensate victims as fully as possible for their losses. *See State v. Ramos*, 155 Ariz. 468, 471, 747 P.2d 629, 632 (App. 1987).

¶30 In any event, we agree with the state that § 11-538(A) is not the only statute governing victim compensation funds. Section 41-2407(A), A.R.S., established the victim compensation and assistance fund, which is administered by the Arizona Criminal Justice Commission (ACJC). The ACJC, in turn, has designated the county attorneys in each county as the operating units to administer these funds,[5] which may be received from a variety of sources, including direct payments from those convicted. *See* Ariz. Admin. Code R10-4-102(B) (commission designates one operational unit per jurisdiction to receive yearly allocation from state fund); Ariz. Admin. Code R10-4-101(24) (defining operational units); Ariz. Admin. Code R10-4-101(1), (2), (24) (operational units responsible for compensating victims); Ariz. Admin. Code R10-4-102(G) ("Funds collected by an operational unit through subrogation or restitution may be retained by the operational unit . . . ."); *see also* A.R.S. § 12-116.01 (describing additional assessments in addition to monetary criminal penalties imposed by trial courts). That these operational units also receive, by statute, funding from the state, specifically the accumulated interest from the state compensation fund trust, *see* § 11-538, is immaterial to their independent abilities to provide compensation through generation of additional funds through direct fines imposed by trial court sentences.

¶31 The legislature has delegated to ACJC the responsibility for compensating Arizona crime victims and ACJC has promulgated administrative rules and designated

[5]The ACJC website states "the county attorney in each of the 15 counties is designated to assume the responsibility for the expenditure of the funds apportioned to the county." *See* http://www.acjc.state.az.us/ACJC.Web/victim/VictComp.aspx#4 (last visited October 6, 2010).

operational units, including PCVCF, to manage this task. Because the administrative code implicitly permits the direct payment of funds to an operational unit, the trial court did not err in requiring Powell to pay into PCVCF.

Disposition

¶32 For the reasons stated, we affirm Powell's convictions and sentences.

/s/ J. William Brammer, Jr.
J. WILLIAM BRAMMER, JR., Presiding Judge

CONCURRING:

/s/ Philip G. Espinosa
PHILIP G. ESPINOSA, Judge

/s/ Joseph W. Howard
JOSEPH W. HOWARD, Chief Judge