

COURT OF APPEALS, DIVISION ONE

BRIEFS

SECTION 2

1 CA-CR 7423

STATE OF ARIZONA

Appellee,

VS

RONNIE JAMES TAFT,

Appellant.

MARICOPA COUNTY
SUPERIOR COURT
No. CR-135281

TRANSMITTAL DATE:

0330

ORIGINAL

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

STATE OF ARIZONA,	)	No. 1 CA-CR 7423
	)	No. 1 CA-CR 7424
Appellee,	)	No. 1 CA-CR 7425
	)	No. 1 CA-CR 7426
)	
v.	)	Maricopa County Superior Court
	)	No. CR-135281
	)	No. CR-125676
RONNIE JAMES TAFT,	)	No. CR-129703
	)	No. CR-130931
Appellant.)	
	)	(Consolidated)
)	

APPELLANT'S OPENING BRIEF

DIVISION 1
COURT OF APPEALS
STATE OF ARIZONA

FILED DEC 7 1983

GLENN D. CLARK, CLERK
By W. S. [Signature]

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STATEMENT OF THE CASE

1

In CR-125676, a complaint was filed on February 25, 1982, in the Tempe Precinct Justice Court, charging the appellant with the crime of Unlawful Flight From a Law Enforcement Vehicle, a class 5 felony, in violation of A.R.S. Sections 28-622.01, 28-444, 28-445, 13-701, 13-702 and 13-801. On March 29, 1982, the appellant waived his right to a preliminary hearing and was ordered held to answer. On April 6, 1982, an information was filed in Maricopa County Superior Court charging the appellant with the aboved named offense. On May 19, 1982, the appellant pled guilty to the crime of Resisting Arrest, a class 6 felony, open-end, in violation of A.R.S. Sections 13-2508, 13-2501, 13-701, 13-702 and 13-801. On June 16, 1982, judgment of guilt was entered and it was ordered suspending the imposition of sentence and placing the appellant on probation for a period of three years commencing June 16, 1982, with one of the conditions of probation being that the appellant be incarcerated in the Maricopa County Jail for a period of three months beginning June 16, 1982.

On October 14, 1982, a petition to revoke probation was filed alleging that the appellant violated term one of his probation by committing the crimes of Criminal Damage, Escape, and Possession of Marijuana, all on or about October 12, 1982. On October 22, 1982, the appellant denied the allegations in the petition. In CR-129703, the appellant was charged with the crimes of Count I, Criminal Damage, a class 6 felony, and Count II, Escape, second degree, a class 5 felony. On November 3, 1982, as is discussed below, the appellant entered a guilty plea to the crime of Count I, Criminal Damage, a class 6 felony. Entry of judgment of guilt and sentencing was set before Judge Gerber on November 29, 1982. On November 16, 1982, Judge Gerber ordered that the violation hearing and disposition

hearing in CR-125676 both be held on November 29, 1982. On November 29, 1982, in CR-125676 the court entered an order that the appellant had violated the conditions of probation which had been imposed on June 16, 1982, on the charge of Resisting Arrest, and then reinstated the appellant on probation in CR-125676 without additional jail time being imposed.

In CR-125676, on March 29, 1983, the trial court entered an order finding the appellant in violation of probation based upon a determination of guilt having been made as to the appellant in CR-130931 as discussed below. On April 26, 1983, the trial court entered a bench warrant when the appellant failed to appear for the disposition hearing. On September 8, 1983, the disposition hearing was held and the trial court entered an order finding the appellant in violation of his probation, revoked said probation, designated the offense a class 6 felony, and ordered that he be committed to the Arizona Department of Corrections for a term of imprisonment for 1.5 years with credit for 257 days served. This sentence was ordered to run concurrent with the sentence imposed in CR-129703 and consecutive to sentences imposed in CR-130931 and CR-135281.

On September 13, 1983, the timely notice of appeal was filed in Maricopa County Superior Court appealing from the orders revoking probation and sentencing the appellant. It is from these orders that this consolidated appeal is brought.

II

In CR-129703, a complaint was filed in Tempe Precinct Justice Court on October 14, 1982, alleging that the appellant committed the crimes of Count I, Criminal Damage, a class 6 felony, in violation of A.R.S. Sections 13-1602, 13-1601, 13-701, 13-702 and 13-801, and Count II, Escape, second degree, a class 5 felony, in violation of A.R.S. Sections 13-2503, 13-2501, 13-701, 13-702, and 13-801. On

October 20, 1982, the appellant waived his right to a preliminary hearing and was ordered held to answer. On October 28, 1982, an information was filed charging the appellant with the above stated crimes. On November 3, 1982, the appellant pled guilty to the crime of Count I, Criminal Damage, pursuant to a plea agreement in which the state agreed to move to dismiss Count II, Escape, second degree, a class 5 felony. It was further agreed that the state would not allege a prior conviction. On November 29, 1982, the trial court entered the judgment of guilt, suspended the imposition of sentence and placed the appellant on probation for a period of three years commencing November 29, 1982, with one condition being that the appellant serve eight months in the Maricopa County Jail beginning November 29, 1982.

On March 29, 1983, the trial court entered an order finding that the appellant had violated a condition of his probation by being determined guilty in CR-130931, as will be discussed below. On April 26, 1983, it was ordered issuing a bench warrant due to the failure of the appellant to appear at the time of his disposition hearing. On September 8, 1983, a disposition hearing was held and the court entered a judgment that the appellant had violated the conditions of his probation imposed on November 29, 1982, designated the offense a class 6 felony, entered an order revoking the probation, and ordered that the appellant be committed to the Arizona Department of Corrections for the term of imprisonment of 1.5 years with credit for 257 days theretofore served. It was ordered that said sentence run concurrently with CR-125676 and consecutive to sentences imposed in CR-130931 and CR-135281.

On September 13, 1983, the appellant filed a notice of appeal appealing from the sentence imposed and the order revoking probation. It is from these orders that this consolidated appeal is brought.

III

In CR-130931, on December 29, 1982, the Maricopa County Grand Jury issued an indictment charging the appellant with Escape, second degree, a class 5 felony, in violation of A.R.S. Sections 13-2503, 13-2501, 13-701, 13-702, 13-801 and 13-604.01. On March 29, 1983, the appellant entered a guilty plea to the above stated charge with the stipulation that the state would not file an allegation of prior conviction and that the sentences in which the appellant was on probation, CR-125676 and CR-129703, shall run concurrently with each other but consecutive to the sentence imposed in CR-130931. On April 26, 1983, the appellant failed to appear for sentencing and a bench warrant was issued for his arrest. On September 8, 1983, a judgment was entered finding that the appellant was guilty of the crime of Escape, second degree, in CR-130931, and it was further ordered that the appellant be committed to the Arizona Department of Corrections for a term of imprisonment for two years. This sentence was ordered to run concurrently with the sentence imposed in CR-135281.

On September 13, 1983, the appellant filed a timely notice of appeal appealing from the judgment of guilt and the sentence imposed. It is from these orders that this consolidated appeal is brought.

IV

In CR-135281 on May 20, 1983, a complaint was filed in West Mesa Precinct Justice Court charging the appellant with the crime of Escape, third degree, a class 6 felony, in violation of A.R.S. Sections 13-2502, 13-2501, 13-701, 13-702, 13-801 and 13-604.01. On August 2, 1983, the appellant waived his right to a preliminary hearing and was ordered held to answer. On August 10, 1983, an information was filed in Maricopa County Superior Court charging the appellant with the above stated offense. On August 11, 1983, the appellant pled guilty to Escape, third degree. On September 8, 1983, the judgment of guilt was entered that the appellant was guilty of the crime of Escape, third degree, in CR-135281, a

class 6 felony, which the court designated to be a felony, and it was ordered that the appellant be committed to the Arizona Department of Corrections for a term of imprisonment for 1.5 years, said sentence to run concurrently to the sentence imposed in CR-130931.

On September 13, 1983, the appellant filed a timely notice of appeal appealing the judgment of guilt and the sentence imposed. It is from these orders that this consolidated appeal is brought.

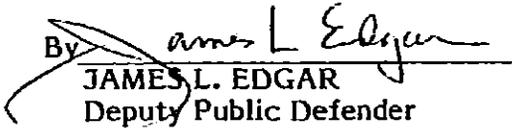
COMPLIANCE WITH ANDERS V. CALIFORNIA

Counsel for Appellant has searched the record on appeal pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967). No arguable question of law has been found. It is respectfully requested that this Court search the record for fundamental error pursuant to A.R.S. Section 13-4035. State v. Powell, 5 Ariz.App. 51, 423 P.2d 127 (1967).

Respectfully submitted,

ROSS P. LEE
Maricopa County Public Defender

By


JAMES L. EDGAR
Deputy Public Defender
Attorney for Appellant

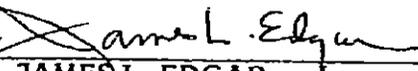
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TWO COPIES of Appellant's Opening Brief mailed this 7th day of December, 1983, to ROBERT K. CORBIN, Attorney General of Arizona, 1275 W. Washington, Criminal Division - 2nd Floor, Phoenix, Arizona 85007.

ONE COPY of Appellant's Opening Brief mailed this 7th day of December, 1983, to Ronnie James Taft, Arizona State Prison, P.O. Box 629, Florence, Arizona 85232.

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