

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

AUG 26 2013

COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

THE STATE OF ARIZONA,)	2 CA-CR 2012-0154
)	DEPARTMENT A
Appellee,)	
)	<u>MEMORANDUM DECISION</u>
v.)	Not for Publication
)	Rule 111, Rules of
JACOB LELAND ODOM,)	the Supreme Court
)	
Appellant.)	
_____)	

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR20102400001

Honorable Teresa Godoy, Judge Pro Tempore

VACATED IN PART; AFFIRMED IN PART

Law Offices of Cornelia Wallis Honchar, P.C.
By Cornelia Wallis Honchar

Tucson
Attorney for Appellant

H O W A R D, Chief Judge.

¶1 Following a jury trial, appellant Jacob Odom was convicted of two counts of armed robbery, two counts of aggravated assault with a deadly weapon, and aggravated robbery. The trial court sentenced him to enhanced, presumptive, concurrent prison terms, the longest of which was 15.75 years. 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), stating she “has reviewed the record” and has found no “arguable question of law” to raise on appeal. Counsel has asked us to search the record for fundamental error. Odom has not filed a supplemental brief.

¶2 Viewed in the light most favorable to sustaining the verdict, the evidence was sufficient to support the jury’s finding of guilt. *See State v. Tamplin*, 195 Ariz. 246, ¶ 2, 986 P.2d 914, 914 (App. 1999). The evidence presented at trial showed Odom and another man had stolen a wallet and a vehicle from one individual and a wallet and bike from another individual. A gun was used in both robberies.

¶3 Odom’s sentences are within the statutory limit and were imposed lawfully. *See* A.R.S. §§ 13-703; 13-704; 13-1204(A)(2), (D); 13-1902; 13-1903; 13-1904. The sentencing minute entry, however, provides that the “fines, fees, assessments and/or restitution” the court had imposed were “reduced to a Criminal Restitution Order [CRO].” But this court has determined that, based on A.R.S. § 13-805(C), “the imposition of a CRO before the defendant’s probation or sentence has expired ‘constitutes an illegal sentence, which is necessarily fundamental, reversible error.’” *State v. Lopez*, 231 Ariz. 561, ¶ 2, 298 P.3d 909, 909 (App. 2013), *quoting State v. Lewandowski*, 220 Ariz. 531, ¶ 15, 207 P.3d 784, 789 (App. 2009). Therefore, the CRO

is vacated. Having found no other fundamental, reversible error in our review pursuant to *Anders*, Odom's convictions and sentences are otherwise affirmed.

/s/ Joseph W. Howard

JOSEPH W. HOWARD, Chief Judge

CONCURRING:

/s/ Garye L. Vásquez

GARYE L. VÁSQUEZ, Presiding Judge

/s/ Michael Miller

MICHAEL MILLER, Judge