

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Appellee,

v.

ERIK SCOTT BROWN,
Appellant.

No. 2 CA-CR 2015-0456
Filed June 13, 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NOT FOR PUBLICATION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 Pima County
No. CR20151162001
The Honorable Danelle B. Liwski, Judge

AFFIRMED AS CORRECTED

COUNSEL

Steven R. Sonenberg, Pima County Public Defender
By Frank P. Leto, Assistant Public Defender, Tucson
Counsel for Appellant

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MEMORANDUM DECISION

Judge Miller authored the decision of the Court, in which Presiding Judge Vásquez and Chief Judge Eckerstrom concurred.

M I L L E R, Judge:

¶1 Appellant Erik Brown was charged with two counts of aggravated assault, one causing a serious physical injury, and both domestic violence offenses. Following a jury trial, he was convicted of aggravated assault causing temporary/substantial disfigurement and misdemeanor assault, both domestic violence offenses. After finding that Brown had a historical prior felony conviction, the trial court sentenced him to a minimum three-year prison term with 249 days of presentence incarceration credit on the first offense and to time served on the second offense.

¶2 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 “meritorious issue” to raise on appeal, and asking that we search the record for “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.” Brown has not filed a supplemental brief.

¶3 Viewing the evidence in the light most favorable to upholding the jury’s verdict, *State v. Tamplin*, 195 Ariz. 246, ¶ 2, 986 P.2d 914, 914 (App. 1999), the evidence established that in March 2015, Brown had a physical altercation with the victim, his brother-in-law, which resulted in the victim suffering from several bruises and injuries to his neck, head, and eyes; the victim also received seventeen stiches on his cheek, and was told he might need plastic surgery in the future. We conclude substantial evidence supported

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Brown's convictions, *see* A.R.S. §§ 13-1204(A)(3), 13-1203, 13-3601(A)(4), and the sentences were lawful and were imposed properly, *see* 2013 Ariz. Sess. Laws, ch. 55, § 3; A.R.S. § 13-707(A)(1).

¶4 However, in our review of the record pursuant to *Anders*, we noticed that the sentencing order refers to the aggravated assault offense as a class three felony under A.R.S. § 13-1204(A)(1), rather than a class four felony under § 13-1204(A)(3), (D). Because it is clear from the record, including the verdicts, presentence report, sentencing transcript, and the sentence imposed, that Brown was convicted of and sentenced for aggravated assault causing temporary but substantial disfigurement, a class four rather than a class three felony, the sentencing order shall be corrected to reflect this. *See State v. Provenzino*, 221 Ariz. 364, ¶¶ 25-26, 212 P.3d 56, 62 (App. 2009) (discrepancy between oral pronouncement of sentence and minute entry may be resolved by reference to record showing dispositive evidence of trial court's intent); *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.").

¶5 Pursuant to our obligation under *Anders*, we have searched the record for fundamental, reversible error and have found none. *See State v. Fuller*, 143 Ariz. 571, 575, 694 P.2d 1185, 1189 (1985). Accordingly, we affirm Brown's convictions and sentences but correct the sentencing order consistent with this decision.