

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



DIVISION ONE
FILED: 10/09/2012
RUTH A. WILLINGHAM,
CLERK
BY: sls

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

STATE OF ARIZONA,) No. 1 CA-CR 11-0492
)
 Appellee,) DEPARTMENT D
)
 v.)
) **MEMORANDUM DECISION**
 VIDAL MONDRAGON-DIAZ,)
) (Not for Publication -
 Appellant.) Rule 111, Rules of the
) Arizona Supreme Court)

Appeal from the Superior Court in Maricopa County

Cause No. CR2010-122410-002 DT

The Honorable Robert Gottsfield, Judge

AFFIRMED

Thomas C. Horne, Attorney General Phoenix
By Kent E. Cattani, Chief Counsel,
Criminal Appeals/Capital Litigation Section
Attorneys for Appellee

Maricopa County Public Defender Phoenix
By Christopher V. Johns, Deputy Public Defender
Attorney for Appellant

G E M M I L L, Judge

¶1 Vidal Mondragon-Diaz ("Mondragon-Diaz") appeals from

his eight convictions and accompanying sentences. Mondragon-Diaz's counsel filed a brief in compliance with *Anders v. California*, 386 U.S. 738 (1967), and *State v. Leon*, 104 Ariz. 297, 451 P.2d 878 (1969), stating that he has searched the record and found no arguable question of law and requesting that this court examine the record for reversible error. Mondragon-Diaz was afforded the opportunity to file a *pro se* supplemental brief but did not do so. See *State v. Clark*, 196 Ariz. 530, 537, ¶ 30, 2 P.3d 89, 96 (App. 1999). For the following reasons, we affirm his convictions and sentences.

FACTS AND PROCEDURAL HISTORY

¶2 "We view the facts and all reasonable inferences therefrom in the light most favorable to sustaining the convictions." *State v. Powers*, 200 Ariz. 123, 124, ¶ 2, 23 P.3d 668, 669 (App. 2001). Mondragon-Diaz and two co-defendants worked in a "drop house" as "coyotes." Victims agreed to pay a fee to coyotes for help crossing the border and for transportation to locations within the United States. After crossing the border illegally, victims were then transported to a drop house in Phoenix and informed that their fees had increased.

¶3 Upon arrival at the drop house, the coyotes confiscated victims' belts, wallets, and shoes. Mondragon-Diaz, an undocumented immigrant who was armed with a knife and a

firearm, guarded the room where victims were kept. Mondragon-Diaz called the victims' families demanding money to secure the victims' release and threatened the victims' safety in order to convince family members to make a payment.

¶14 Mondragon-Diaz and two codefendants were tried together and represented by separate counsel. Mondragon-Diaz was convicted on the following counts: two counts of kidnapping, a class 2 dangerous felony; three counts of theft by extortion, a class 2 dangerous felony; armed robbery, a class 2 dangerous felony; smuggling, a class 3 felony; and misconduct involving weapons, a class 4 felony. All counts except for the smuggling and misconduct involving weapons counts were found to be dangerous offenses.

¶15 Mondragon-Diaz was sentenced to mitigated terms of seven years in prison for each conviction of kidnapping, theft by extortion, and armed robbery. He was sentenced to mitigated terms of one year in prison on his convictions for smuggling and misconduct involving weapons. All sentences were ordered to be served concurrently. The court also credited Mondragon-Diaz with 433 days of presentence incarceration credit.

¶16 This court has jurisdiction pursuant to Arizona Revised Statutes ("A.R.S.") sections 12-120.21(A)(1) (2003), 13-

4031 (2010) and -4033(A)(1) (2010).¹

DISCUSSION

¶17 Having considered defense counsel's brief and examined the record for reversible error, *see Leon*, 104 Ariz. at 300, 451 P.2d at 881, we find none. The evidence presented supports the convictions, and the sentences imposed fall within the ranges permitted by law. As far as the record reveals, Mondragon-Diaz was represented by counsel at all stages of the proceedings, and these proceedings were conducted in compliance with his constitutional and statutory rights and the Arizona Rules of Criminal Procedure.

¶18 Pursuant to *State v. Shattuck*, 140 Ariz. 582, 584-85, 684 P.2d 154, 156-57 (1984), counsel's obligations in this appeal have ended. Counsel need do no more than inform Mondragon-Diaz of the disposition of the appeal and his future options, unless counsel's review reveals an issue appropriate for submission to the Arizona Supreme Court by petition for review. Mondragon-Diaz has thirty days from the date of this decision in which to proceed, if he desires, with a *pro se* motion for reconsideration or petition for review.

¹ We cite to the current versions of statutes when no revisions material to this decision have occurred since the date of the alleged offenses.

CONCLUSION

¶19 The convictions and sentences for all counts are affirmed.

_____/s/_____
JOHN C. GEMMILL, Presiding Judge

CONCURRING:

_____/s/_____
PETER B. SWANN Judge

_____/s/_____
ANDREW W. GOULD, Judge