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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: 09/18/2012  
RUTH A. WILLINGHAM,  
CLERK  
BY: sls

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION ONE

STATE OF ARIZONA, ) No. 1 CA-CR 11-0498  
)  
Appellee, ) DEPARTMENT D  
)  
v. ) **MEMORANDUM DECISION**  
) (Not for Publication -  
ROBERT THEODORE PETERSON, JR., ) Rule 111, Rules of the  
) Arizona Supreme Court)  
Appellant. )  
)

Appeal from the Superior Court in Maricopa County

Cause No. CR2010-161292-001

The Honorable Lisa D. Flores, Judge

**Affirmed**

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

James J. Haas, Maricopa County Public Defender Phoenix  
By Terry J. Adams, Deputy Public Defender  
Attorneys for Appellant

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**G O U L D**, Judge

¶1 Robert Theodore Peterson, Jr. ("Peterson") appeals from his convictions and sentences for one count of armed robbery, a class two felony, dangerous offense; one count of misconduct involving weapons, a class four felony; one count of

possession of drug paraphernalia, a class six felony; and two counts of theft, both class one misdemeanors. Peterson was sentenced on July 8, 2011 and timely filed a notice of appeal on July 14, 2011. Peterson's counsel filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967), and *State v. Leon*, 104 Ariz. 297, 451 P.2d 878 (1969), advising this Court that after a search of the entire appellate record, he finds no arguable ground for reversal. Peterson was granted leave to file a supplemental brief *in propria persona* on or before July 16, 2012, and did not do so.

¶2 Our obligation in this appeal is to review "the entire record for reversible error." *State v. Clark*, 196 Ariz. 530, 537, ¶ 30, 2 P.3d 89, 96 (App. 1999). We have jurisdiction pursuant to Article 6, Section 9, of the Arizona Constitution and Arizona Revised Statutes ("A.R.S.") sections 12-120.21(A)(1) (2003), 13-4031 and 13-4033(A)(1) (2010).<sup>1</sup> Finding no reversible error, we affirm.

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<sup>1</sup> Unless otherwise specified, we cite to the current version of the applicable statutes because no revisions material to this decision have occurred.

### ***Facts and Procedural History***<sup>2</sup>

¶3 On August 30, 2010, victim T.C. contacted police dispatch stating he had been robbed. T.C. testified he received a phone call from Peterson offering to sell him TVs. Peterson subsequently arrived at T.C.'s place of business. Peterson showed T.C. a packet of pictures of TVs that Peterson claimed he had available for purchase. Peterson and T.C. agreed upon a price of \$200 for a TV. T.C. did not have cash on him so he and Peterson went to the bank with T.C.'s co-worker, Scott S., who was going to lend T.C. money to purchase the TV and also purchase a TV for himself. After Scott S. withdrew the money from the bank and gave it to T.C., Peterson got in T.C.'s car and gave T.C. directions to an apartment complex. When T.C. pulled into the apartment complex parking lot he felt something in his side and looked down. Peterson was holding a gun pressed into his side. Peterson demanded the money that had been withdrawn from the bank. After T.C. gave Peterson the money, Peterson got out of the vehicle and disappeared.

¶4 Victim E.R. testified that at the end of October, 2010, a black male came into his place of employment and offered to sell him electronics. E.R. stated the man showed him

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<sup>2</sup> We view the evidence in the light most favorable to sustaining the convictions and resulting sentences. See *State v. Guerra*, 161 Ariz. 289, 293, 778 P.2d 1185, 1189 (1989).

"printed out worksheets of just electronics stuff on there with prices of retail price." E.R. agreed to purchase a 42-inch LCD TV and a Bose system. E.R. did not have the money that night to purchase the items, so he gave Peterson his cell phone number and told Peterson to check with him in a few weeks. After a few weeks, Peterson called E.R. and E.R. decided to buy two LCD TVs, a PlayStation 3 and a Bose system. E.R. picked Peterson up around midnight at a bar. Peterson gave E.R. directions to an apartment complex and they arrived there shortly after midnight. E.R. testified Peterson punched in the gate code and then got back in the car. E.R. gave Peterson all but \$200 of the agreed upon price and they started walking towards the apartment complex. Peterson told E.R. to wait around the corner while he went and knocked on the door of an apartment. Peterson returned and told E.R. "they" were going to come out with the products and to wait where he was. E.R. testified he felt that "something wasn't right." E.R. told Peterson he wanted to come with him and Peterson told him no and reached around in his back as if he was "carrying a weapon." Afraid to cause problems, E.R. stayed where he was and Peterson went around the building. E.R. waited, then looked around for Peterson for a few minutes; Peterson, however, had disappeared. E.R. subsequently had a security guard call the police.

¶5           Victim D.V. testified Peterson came into his place of employment around lunchtime on November 16, 2010, offering to sell him cheap electronics. D.V. told Peterson to return when the store closed. Peterson returned after the store closed, and D.V. eventually agreed to buy 2 Macbook computers from Peterson for \$500. D.V. drove Peterson to a Bank of America ATM so that D.V. could withdraw money, and then, pursuant to Peterson's directions, drove Peterson to an apartment complex. Peterson gave D.V. the gate code for the apartment complex and as they drove in, asked D.V. for the money telling him the individuals who were selling the electronics were not allowed to see the transaction. D.V. told Peterson he was going to go with him. D.V. and Peterson walked through the apartment complex and knocked on a door. Peterson spoke to someone at the door and returned to where D.V. was standing and said that "everything was okay." D.V. gave Peterson the money and he was "gone." D.V. returned to his car, called the police and attempted to locate Peterson in the apartment complex, all to no avail.

¶6           Detective Brian McWilliams from the Scottsdale Police Department received a court order for T.C.'s phone records and was able to get the phone number for the person who called T.C. Detective McWilliams then obtained a court order for the phone records and subscriber information for the phone number. Detective McWilliams' investigation eventually led him to

Peterson. Detective McWilliams obtained a photograph of Peterson and prepared a photo lineup and showed it to T.C. T.C. identified Peterson as the person who robbed him. D.V. also identified Peterson from the photo lineup. In addition, McWilliams obtained a surveillance video from the Bank of America ATM which showed Peterson sitting next to D.V. in the car at the ATM.

¶7 After McWilliams conducted surveillance on Peterson, McWilliams arrested Peterson and obtained a search warrant for Peterson's residence. During the execution of the search warrant, a handgun that was later found to contain Peterson's DNA was discovered in Peterson's bedroom closet.

¶8 After Peterson was booked into the county jail, Detective McWilliams discovered victim D.V.'s business card with Peterson's personal belongings. Detective McWilliams also found a small plastic baggy containing a white residue in Peterson's pants. During Detective McWilliams' interrogation of Peterson, Peterson admitted that he snorts cocaine.

¶9 Peterson was charged with one count of armed robbery as to victim T.C; one count of theft as to victims E.R. and D.V.; one count of misconduct involving weapons; and one count of possession of drug paraphernalia. Peterson was present and represented by counsel throughout all stages of the case. A jury eventually found Peterson guilty of all five counts and

further found count one was a dangerous offense. The jury also found the State proved as an aggravating factor that Peterson committed the offense as consideration for the receipt or in the expectation of the receipt of anything of pecuniary value.

¶10 At sentencing the State decided not to pursue its allegation of priors and instead focused on the range Peterson could be sentenced to as to count one (armed robbery). When given an opportunity to speak at sentencing, Peterson apologized and said he did do something, but "didn't do what they said I did."

¶11 The trial court ordered an aggravated sentence of 16 years as to count one; 115 days in jail each for counts two and three with credit for 115 days on each count; a presumptive sentence of two and a half years on count four; and a presumptive sentence of one year on count five. Counts one, four and five were to be served concurrently, but consecutively to the sentences imposed in counts two and three; in addition, counts two and three were to be served consecutively to each other. Peterson filed a timely notice of appeal.

#### ***Discussion***

¶12 We have read and considered the entire record and have found no meritorious grounds for reversal of Peterson's conviction or for modification of the sentence imposed. *Clark*, 196 Ariz. at 541, ¶ 50, 2 P.3d at 100. Peterson was present at

all critical stages of the proceedings and was represented by counsel. All proceedings were conducted in compliance with the Arizona Rules of Criminal Procedure and substantial evidence supported the finding of guilt. Accordingly, we affirm.

**Conclusion**

¶13 Counsel's obligations pertaining to Peterson's representation in this appeal have ended. Counsel need do nothing more than inform Peterson of the status 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. *State v. Shattuck*, 140 Ariz. 582, 584-85, 684 P.2d 154, 156-57 (1984). Peterson shall have thirty days from the date of this decision to proceed, if he so desires, with an *in propria persona* motion for reconsideration or petition for review.<sup>3</sup>

/S/  
ANDREW W. GOULD, Judge

CONCURRING:

/S/  
JOHN C. GEMMILL, Presiding Judge

/S/  
PETER B. SWANN, Judge

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<sup>3</sup> Pursuant to Arizona Rule of Criminal Procedure 31.18(b), Defendant or his counsel has fifteen days to file a motion for reconsideration. On the court's own motion, we extend the time to file such a motion to thirty days from the date of this decision.