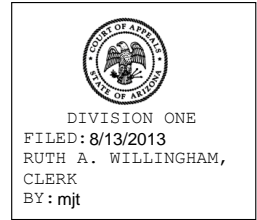


NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED  
EXCEPT AS AUTHORIZED BY APPLICABLE RULES.  
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);  
Ariz. R. Crim. P. 31.24



IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION ONE

STATE OF ARIZONA, ) 1 CA-CR 12-0571  
)  
Appellee, ) DEPARTMENT E  
)  
v. ) **MEMORANDUM DECISION**  
) (Not for Publication - Rule  
DANIEL CELIS-ACOSTA, ) 111, Rules of the Arizona  
) Supreme Court)  
Appellant. )  
)

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Appeal from the Superior Court in Maricopa County

Cause No. CR2011-005622-002

The Honorable Samuel A. Thumma, Judge

**AFFIRMED**

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Thomas C. Horne, Arizona Attorney General Phoenix  
By Joseph T. Maziarz, Chief Counsel Criminal Appeals  
Attorneys for Appellee

James J. Haas, Maricopa County Public Defender Phoenix  
By Spencer D. Heffel, Deputy Public Defender  
Attorneys for Appellant

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**N O R R I S**, Judge

¶1 Daniel Celis-Acosta appeals from his convictions and sentences for unlawful discharge of a firearm and disorderly conduct, both class six dangerous felonies. Ariz. Rev. Stat.

("A.R.S.") § 13-3107(A) (Supp. 2012);<sup>1</sup> A.R.S. § 13-2904(A)(6), (B) (2010).

¶12 After searching the record on appeal and finding no arguable question of law that was not frivolous, Celis-Acosta's counsel filed a brief in accordance with *Anders v. California*, 386 U.S. 738, 87 S. Ct. 1396, 18 L. Ed. 2d 493 (1967), and *State v. Leon*, 104 Ariz. 297, 451 P.2d 878 (1969), asking this court to search the record for fundamental error. This court granted counsel's motion to allow Celis-Acosta to file a supplemental brief *in propria persona*, but Celis-Acosta did not do so.

¶13 After reviewing the entire record, we find no fundamental error and, therefore, affirm Celis-Acosta's convictions and sentences.

#### FACTS AND PROCEDURAL BACKGROUND<sup>2</sup>

¶14 Around 11 p.m. on October 14, 2010, Celis-Acosta, his mother, and other family members were at home when his mother heard a car arrive. His mother went outside, saw three or four men armed with "long" rifles that appeared to be assault rifles, and screamed for help. The armed men began to leave. As she

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<sup>1</sup>Although the Arizona Legislature amended certain statutes cited in this opinion after the date of Celis-Acosta's offenses, the revisions are immaterial. Thus, we cite to the current version of these statutes unless otherwise noted.

<sup>2</sup>We view the facts in the light most favorable to sustaining the jury's verdict and resolve all reasonable inferences against Celis-Acosta. *State v. Guerra*, 161 Ariz. 289, 293, 778 P.2d 1185, 1189 (1989).

retreated inside, Celis-Acosta ran past her to go outside with his nine millimeter handgun. He fired two shots at a fleeing vehicle, while it was approximately 709 feet away from the house. The vehicle then made a U-turn and appeared to be heading back towards Celis-Acosta. He shot at it again.

¶15 At trial, Celis-Acosta testified he had shot at the vehicle in self-defense and to protect his family. The superior court instructed the jury on "justification for self-defense -- deadly physical force," "justification for defense of a third person," "justification in defense of premises," "justification for using force in defense of residential structure," and "use of force in crime prevention." The jury found Celis-Acosta guilty as charged and the court sentenced him to concurrent mitigated prison terms of one year and ten months on each count with 33 days of presentence incarceration credit.<sup>3</sup>

¶16 The jury, not this appellate court, finds the facts, weighs the evidence, and determines a witness's credibility.

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<sup>3</sup>On this record, we cannot verify whether the presentence incarceration credit the superior court gave to Celis-Acosta is accurate. At trial, police testified they arrested Celis-Acosta on October 15, 2010, but the record does not reflect when he was released. The record also reflects Celis-Acosta was arrested on August 11, 2011 on a bench warrant and posted a bond on August 12, 2011, but does not reflect when he was released. Further, the presentence investigation report does not mention the time Celis-Acosta spent in jail before his sentencing. Nevertheless, at sentencing, the State and defense counsel agreed Celis-Acosta was entitled to 33 days of presentence incarceration credit.

*State v. Fimbres*, 222 Ariz. 293, 297, ¶ 4, 213 P.3d 1020, 1024 (App. 2009). Despite Celis-Acosta's testimony, on this record, there was sufficient evidence to reject Celis-Acosta's self-defense and justification claims.

#### DISCUSSION

¶7 We have reviewed the entire record for reversible error and find none. See *Leon*, 104 Ariz. at 300, 451 P.2d at 881. Celis-Acosta received a fair trial. He was represented by counsel at all stages of the proceedings and was present at all critical stages.

¶8 The evidence presented at trial was substantial and supports the verdicts. The jury was properly comprised of eight members and the court properly instructed the jury on the elements of the charges, Celis-Acosta's presumption of innocence, the State's burden of proof, and the necessity of a unanimous verdict. The superior court received and considered a presentence report, Celis-Acosta was given an opportunity to speak at sentencing, and his sentences were within the range of acceptable sentences for his offenses. See A.R.S. § 13-704(A), (L) (Supp. 2012) (sentencing range for class six dangerous felony); A.R.S. § 13-105(13) (Supp. 2012) ("Dangerous offense" means an offense involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument or the

intentional or knowing infliction of serious physical injury on another person." ).

#### CONCLUSION

¶9 We decline to order briefing and affirm Celis-Acosta's convictions and sentences.

¶10 After the filing of this decision, defense counsel's obligations pertaining to Celis-Acosta's representation in this appeal have ended. Defense counsel need do no more than inform Celis-Acosta of the outcome of this appeal and his future options, unless, upon review, counsel finds 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).

