

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: 02/18/2010
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IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

STATE OF ARIZONA,) 1 CA-CR 07-0838
)
Appellee,) DEPARTMENT A
)
v.) **DECISION ORDER**
)
NAKIM GARRISON,)
)
Appellant.)
)

This matter was remanded by the Arizona Supreme Court to this court for reconsideration in light of *State v. Soliz*, 223 Ariz. 116, 219 P.3d 1045 (2009). This matter has been considered by Presiding Judge Sheldon H. Weisberg, and Judges John C. Gemmill and Daniel A. Barker. We provided the parties an opportunity to file simultaneous briefs on this issue. They have done so, and we have considered the briefs.

In our previous memorandum decision in this matter we affirmed the ruling on the motion to suppress but vacated the convictions and sentences and remanded for a new trial because the jury consisted of eight persons rather than twelve. Both parties agree that due to *Soliz* there is no longer a basis to vacate the convictions and sentences. Accordingly, that portion

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of our memorandum decision is vacated. Based on *Soliz*, the convictions and sentences are affirmed.

/s/

DANIEL A. BARKER, Judge