## 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

OF ARES		
DIVISION ONE		
FILED: 02/16/2010		
PHILIP G. URRY, CLERK		
BY: GH		

STATE OF ARIZONA,	) 1 CA-CR 08-0295
Appellee,	) DEPARTMENT A
v.	) DECISION ORDER
XAVIER GARCIA ESCOBEDO,	)
Appellant.	)
	)
	)

This matter was remanded to the Court of Appeals by the Arizona Supreme 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 Michael J. Brown and Judges Daniel A. Barker and Margaret H. Downie.

Because Soliz does not change the outcome of this matter there is no requirement for briefing with regard to the remand for reconsideration. In Soliz, the court found that "as long as a lesser sentence may legally be imposed for the crime alleged," and such a lesser sentence was in fact imposed, there is no error in failing to empanel a twelve-person jury. Id. at 120,

State v. Escobedo 1 CA-CR 08-0295

 $\P$  16, 219 P.3d at 1049. A sentence of less than thirty years was legally imposed here. Accordingly,

IT IS ORDERED affirming the proceedings below.

/s/

DANIEL A. BARKER, Judge