

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



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

**IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE**

STATE OF ARIZONA,) 1 CA-CR 09-0190
)
Appellee,) DEPARTMENT D
)
v.) **MEMORANDUM DECISION**
) (Not for Publication -
ISMAEL MAYORQUIN,) Rule 111, Rules of the
) Arizona Supreme Court)
Appellant.)
)

Appeal from the Superior Court in Maricopa County

Cause No. CR2007-170264-001 DT

The Honorable Stephen P. Lynch, Judge Pro Tem

AFFIRMED

Terry Goddard, 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
Attorneys for Appellant

I R V I N E, Judge

¶1 This appeal is filed in accordance with *Anders v. California*, 386 U.S. 738 (1967) and *State v. Leon*, 104 Ariz.

297, 451 P.2d 878 (1969). Counsel for Ismael Mayorquin ("Mayorquin") asks this court to search the record for fundamental error. Mayorquin was given an opportunity to file a supplemental brief in propria persona. Mayorquin has not done so. After reviewing the record, we affirm Mayorquin's conviction and sentence for kidnapping.

FACTS AND PROCEDURAL HISTORY

¶2 The State charged Mayorquin with kidnapping, a class two felony and dangerous crime against children. At the close of the evidence, the trial court properly instructed the jury on the elements of the offense. Mayorquin was convicted as charged.

¶3 The trial court conducted the sentencing hearing in compliance with Mayorquin's constitutional rights and Rule 26 of the Arizona Rules of Criminal Procedure. The trial court sentenced Mayorquin to twenty-four years' imprisonment in the Arizona Department of Corrections with credit for 500 days presentence incarceration. The trial court also imposed restitution in the amount of \$400.

DISCUSSION

¶4 We exercise jurisdiction pursuant to Article 6, Section 9, of the Arizona Constitution and Arizona Revised Statutes section 12-120.21(A)(1) (2003). We review Mayorquin's conviction and sentence for fundamental error. See *State v. Gendron*, 168 Ariz. 153, 155, 812 P.2d 626, 628 (1991).

¶15 Counsel for Mayorquin has advised this court that after a diligent search of the entire record, he has found no arguable question of law. The court has read and considered counsel's brief and fully reviewed the record for reversible error. See *Leon*, 104 Ariz. at 300, 451 P.2d at 881. We find none. All of the proceedings were conducted in compliance with the Arizona Rules of Criminal Procedure. So far as the record reveals, Mayorquin was represented by counsel at all stages of the proceedings and the sentence imposed was within the statutory limits. We decline to order briefing and we affirm Mayorquin's conviction and sentence.

¶16 Upon the filing of this decision, defense counsel shall inform Mayorquin of the status of his appeal and of his future options. Defense counsel has no further obligations unless, upon review, counsel finds an issue appropriate for submission to the Arizona Supreme Court by petition for review. See *State v. Shattuck*, 140 Ariz. 582, 584-85, 684 P.2d 154, 156-57 (1984). Mayorquin shall have thirty days from the date of this decision to proceed, if he desires, with a pro per motion for reconsideration or petition for review. On the court's own motion, we extend the time for Mayorquin to file a pro per motion for reconsideration to thirty days from the date of this decision.

CONCLUSION

¶7 Mayorquin's conviction and sentence is affirmed.

/s/

PATRICK IRVINE, Judge

CONCURRING:

/s/

JOHN C. GEMMILL, Presiding Judge

/s/

JON W. THOMPSON, Judge