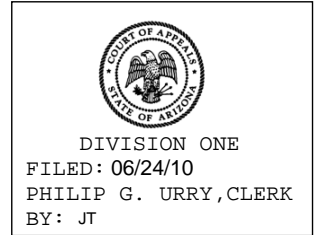


NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED
EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);
Ariz. R. Crim. P. 31.24



IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

STATE OF ARIZONA,)
) No. 1 CA-CR 09-0266
 Appellee,)
) DEPARTMENT E
 v.)
) **MEMORANDUM DECISION**
 MANUEL M. JASSO, JR.)
) (Not for Publication -
 Appellant.) Rule 111, Rules of the
) Arizona Supreme Court)

Appeal from the Superior Court in Maricopa County

Cause No. CR2007-125490-002 DT

The Honorable Carolyn K. Passamonte, Judge Pro Tem

AFFIRMED

Terry Goddard, Attorney General Phoenix
By Kent E. Cattani, Chief Counsel,
Criminal Appeals Section
Attorney for Appellee

Maricopa County Public Defender's Office Phoenix
By Terry J. Adams, Deputy Public Defender
Attorneys for Appellant

G E M M I L L, Judge

¶1 Appellant Manuel M. Jasso, Jr., appeals his conviction and sentence for criminal trespass in the first degree. Jasso's counsel filed a brief in compliance with *Anders v. California*, 386 U.S. 738 (1967), and *State v. Leon*, 104 Ariz. 297, 451 P.2d

878 (1969), stating that he has searched the record and found no arguable question of law and requesting that this court examine the record for reversible error. See *Smith v. Robbins*, 528 U.S. 259 (2000). Jasso was afforded the opportunity to file a supplemental brief *in propria persona* but did not do so. For the following reasons, we affirm.

FACTS AND PROCEDURAL HISTORY

¶2 We are required to view the facts and all reasonable inferences therefrom in the light most favorable to sustaining the verdict. See *State v. Powers*, 200 Ariz. 123, 124, ¶ 2, 23 P.3d 668, 669 (App. 2001). At about 10:00 a.m. on April 17, 2007, D.K. was home alone watching television. Through her front door window she saw a man approaching her apartment. She watched through the window blinds as the man walked over to her next-door neighbor's yard, looked through the neighbor's kitchen window, walked back to her apartment, and knocked three times at her front door. She did not answer.

¶3 The man then walked to the rear of her apartment. D.K. heard him attempting to enter through the back door, and she dialed 911. While on the phone with the 911 dispatcher, she retrieved a handgun she kept in her home and went into the back room to confront the intruder. The man was halfway through the back door when he saw D.K. He quickly went back out the door when he became aware D.K. was holding a gun. D.K. set the gun

down and went out the front door to wait for the police to arrive.

¶14 Phoenix Police Officer N. responded to the 911 call. While en route to the scene, he saw Jasso walking across the street from D.K.'s apartment. Jasso's appearance - his hair and facial hair were "scraggily" and "long," he was wearing a turquoise shirt, and he was walking with a limp - matched the description D.K. had given to the 911 dispatcher of the intruder. Officer N. detained Jasso while another police officer brought D.K. in a patrol car to where Jasso was detained. She positively identified Jasso as the intruder, and he was taken into custody.

¶15 In February 2008, Jasso was charged with criminal trespass in the first degree, a class six felony. After a three-day jury trial, he was found guilty as charged. At the sentencing hearing, the trial court found Jasso had two prior convictions and sentenced him to the presumptive term of 3.75 years' imprisonment, giving him credit for 153 days of presentence incarceration. Jasso timely appealed, and we have jurisdiction pursuant to Arizona Revised Statutes (A.R.S.) sections 12-120.21(A)(1) (2003), 13-4031 (2010), and 13-4033(A)(1) (2010).

DISCUSSION

¶16 During the trial, D.K. was asked whether she

recognized any person in the courtroom as the person who broke into her home. She was unable to positively identify Jasso as the intruder although he was in the courtroom, stating Jasso looked "a little bit" similar to the intruder but did not have "all of the facial hair" the intruder had and was "taller and thinner" than the intruder. After the State presented its evidence, defense counsel moved for a judgment of acquittal under Arizona Rule of Criminal Procedure 20 on the ground D.K. had failed to identify Jasso as the intruder. The trial court denied the motion.

¶17 We find no error with the court's decision. During his testimony, Officer N. identified Jasso as the same person he had detained on the day of the incident. He stated that Jasso now looked different than he had on that day because he had shaved his head and trimmed his beard. On the day of the incident, D.K. positively identified the person Officer N. detained as the person who had broken into her home. Thus, there was sufficient evidence from which the jury could reasonably find beyond a reasonable doubt that Jasso was the intruder.

¶18 Having considered defense counsel's brief and examined the record for reversible error, *see Leon*, 104 Ariz. at 300, 451 P.2d at 881, we find none. The sentence imposed falls within the range permitted by law, and the evidence presented supports

the conviction. As far as the record reveals, Jasso was represented by counsel at all stages of the proceedings, and these proceedings were conducted in compliance with his constitutional and statutory rights and the Arizona Rules of Criminal Procedure.

¶9 Pursuant to *State v. Shattuck*, 140 Ariz. 582, 584-85, 684 P.2d 154, 156-57 (1984), counsel's obligations in this appeal have ended. Counsel need do no more than inform Jasso of the disposition 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. Jasso has thirty days from the date of this decision in which to proceed, if he desires, with a *pro se* motion for reconsideration or petition for review.

CONCLUSION

¶10 The conviction and sentence are affirmed.

_____/s/_____
JOHN C. GEMMILL, Judge

CONCURRING:

_____/s/_____
SHELDON H. WEISBERG, Presiding Judge

_____/s/_____
PHILIP HALL, Judge