DIVISION ONE
FILED: 06-29-2010
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IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

STATE OF ARIZONA, Appellee, v. DENNIS JAMES VAUGHN, Appellant.	)	1 CA-CR 09-0331 DEPARTMENT A **MEMORANDUM DECISION** (Not for Publication – Rule 111, Rules of the Arizona Supreme Court)

Appeal from the Superior Court in Maricopa County

Cause No. CR2006-162531-001 DT

The Honorable Kristin C. Hoffman, Judge

AFFIRMED

Terry Goddard, Arizona Attorney General — Phoenix
by Kent E. Cattani, Chief Counsel,
Criminal Appeals/Capital Litigation Section
and Sarah E. Heckathorne, Assistant Attorney General
Attorneys for Appellee

James J. Haas, Maricopa County Public Defender — Phoenix
by Stephen R. Collins, Deputy Public Defender
Attorneys for Appellant

B A R K E R, Judge

¶1 Dennis James Vaughn appeals his convictions and sentences arguing that (1) the trial court erred by failing to make findings of fact to support its verdict and (2) his jury trial waiver was invalid. For the following reasons, we affirm.

Facts and Procedural History

¶2 We review the factual evidence in the light most favorable to sustaining the court's verdict and resolve all inferences against Vaughn. *State v. Fontes*, 195 Ariz. 229, 230, ¶ 2, 986 P.2d 897, 898 (App. 1998). On October 4, 2006, two informants told police officers Vaughn was dealing in illegal substances. The officers attempted a "controlled buy" of illegal drugs by the informants, but they were ultimately unsuccessful. Vaughn told the informants "he knew what was up, to not come around anymore," and that "if the man -- referring to police officers -- did show up at his house, that it would be one hell of a fight, while lifting up his shirt and revealing a Glock." Vaughn also stated that "the man ain't going to bring him down." One of the informants had known Vaughn since the informant was a child and he had seen grenades and automatic weapons at Vaughn's home over a dozen times; Vaughn told the informant he converted his semi-automatic weapons into automatic weapons himself. The other informant had also seen automatic weapons, grenades, and suppressors/silencers at Vaughn's home. Vaughn was a prohibited possessor of weapons.

¶3 Officers obtained a "nighttime/no-knock" search warrant because of Vaughn's history of resisting arrest and "possession of a sawed-off shotgun" in combination with the information about "grenades being in the house, possible explosives, automatic weapons, suppressors, and statements saying that he would shoot it out with police officers if they ever came to his house." In the early morning of October 5, 2006, two SWAT teams and a cameraman for "SWAT U.S.A." arrived at Vaughn's residence. An unsuccessful "explosive charge" was attempted on the door of his house leaving a security door. Officer C.S. then physically removed the door and heard shots coming from inside the house. Several officers yelled out, "Sheriff's office. Search warrant," and heard a yell and automatic gunfire in response. Officer C.S. was shot in his right leg and knew "someone was trying to take [his] life." Sergeant G.P. left his position and moved to the front and was shot in the back. Sergeant G.P. was shot several times thereafter, and other officers extricated him from the house.

¶4 An armor personnel vehicle moved into the front yard and started making "very loud announcements for subjects inside the residence to come out." Vaughn came out with his hands up and was taken into custody. A few minutes later, Vaughn's grandson and wife also came out of the house. Officer's entered the residence and found an AK-47 rifle lying on a recliner in

the living room, an AR-15 rifle with a night scope lying on a couch, a Glock pistol on the coffee table, and multiple weapons located throughout the residence. Police also discovered a TV that was used as a surveillance monitor of the front entryway, and a bipod on the coffee table used to keep a rifle steady as rounds are fired.

¶5 On January 29, 2009, Vaughn waived his right to a jury trial by both signing a written document and entering into a colloquy with the court. His case proceeded to trial by the court and Vaughn presented a guilty but insane defense. He was convicted of all charges, including twenty-five counts of aggravated assault, two counts of reckless endangerment, and six counts of possession of a prohibitive weapon. Vaughn was sentenced to the following terms of imprisonment: aggravated terms of twenty-one years each for counts 1 and 2, presumptive terms of ten and a half years each for counts 3 through 24, a presumptive term of seven and a half years on amended count 25, presumptive terms of two and a quarter years on counts 26 and 27, and presumptive terms of two and half years on counts 28 through 33. The trial court ordered the sentences on counts 1 through 25 to be served consecutively, the sentences on counts 26 through 33 were to be served concurrently with one another, but consecutive to counts 1 through 25, and he was awarded 925

days of presentence incarceration credit on count 3. Vaughn was also ordered to pay $423,199.14 in restitution.

¶6 Vaughn filed a timely notice of appeal. We have jurisdiction pursuant to Article 6, Section 9, of the Arizona Constitution and Arizona Revised Statutes ("A.R.S.") sections 12-120.21(A)(1) (2003), 13-4031 (2010), and 13-4033(A) (2010).

Discussion

1. The Trial Court's Decision to Not Make Findings

¶7 Vaughn contends the trial court's failure to make findings of fact and conclusions of law to support its verdict violated his constitutional right to a meaningful appeal. The State points out that a criminal defendant has a right to a "record of sufficient completeness" on appeal to ensure meaningful review, *Draper v. Washington*, 372 U.S. 487, 497 (1963) (citing *Coppedge v. United States*, 369 U.S. 438, 446 (1962)), but that "[t]here is no criminal rule of procedure for requiring findings of fact and conclusions of law." *State v. Jones*, 95 Ariz. 230, 233, 388 P.2d 806, 808 (1964). The Arizona Supreme Court has encouraged trial courts "to include in the record the reasons for their decisions so that appellate courts may review those decisions in a more directed and efficacious manner." *State v. Fisher*, 141 Ariz. 227, 236 n.1, 686 P.2d 750, 759 n.1 (1984). However, when a criminal case is tried to the court instead of a jury, the trial court is not required to make

findings of fact and conclusions of law, even when requested by the defendant. *State v. West*, 173 Ariz. 602, 607-08, 845 P.2d 1097, 1102-03 (App. 1992).

¶8 Additionally, Vaughn's argument is not well taken in light of the fact "[w]e are obliged to affirm the trial court's ruling if the result was legally correct for any reason." *State v. Perez*, 141 Ariz. 459, 464, 687 P.2d 1214, 1219 (1984). We do not rely solely on the trial court's findings for appellate review, but consider the issues and arguments raised and determine if the court arrived at the proper conclusion. Thus, whether the trial court made no findings, or came to an otherwise proper conclusion but for a flawed reason, is irrelevant. *Id*. Neither scenario diminishes the value of the appeal. Although a trial court's findings of fact and conclusions of law can aid our review by directing it and making it more efficacious, they are not necessary for a meaningful review. When reviewing issues raised by appellants, appellate courts will not uphold a trial court's judgment if it is not supported by the evidence, regardless of whether or not the trial court made findings of fact and conclusions of law. *State v. West*, 173 Ariz. 602, 610, 845 P.2d 1097, 1105 (App. 1992) (reversal for insufficient evidence occurs where "there is a complete absence of probative facts or where the judgment is contrary to substantial evidence in the record"). Therefore, we

find the trial court's decision to not make findings of fact and conclusions of law to support its verdict did not violate Vaughn's constitutional right to a meaningful appeal or any applicable statute or court rule.[1]

2. Jury Trial Waiver

¶9 The only basis for error that Vaughn asserts as to his waiver of a jury trial is that he should have been advised that by agreeing to a bench trial without any findings of fact he would lose his right to meaningful appeal. For the reasons we have just set forth, a defendant does not lose the right to a meaningful appeal when tried in a bench trial without findings. Accordingly, there was no error as to the waiver of a jury trial.

Conclusion

¶10 For the foregoing reasons we affirm Vaughn's convictions and sentences.

/s/
DANIEL A. BARKER, Judge

CONCURRING:

/s/
MICHAEL J. BROWN, Presiding Judge

/s/
PHILIP HALL, Judge

[1] Appellant does not contest that there are facts sufficient to support the trial court's verdict, and the record shows there are.