

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



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FILED: 06-08-2010  
PHILIP G. URRY, CLERK  
BY: GH

STATE OF ARIZONA, ) 1 CA-CR 09-0373  
)  
Appellee, ) DEPARTMENT D  
)  
v. ) **MEMORANDUM DECISION**  
) (Not for Publication -  
CICERO OROZCO, ) Rule 111, Rules of the  
) Arizona Supreme Court)  
Appellant. )  
\_\_\_\_\_ )

Appeal from the Superior Court of Maricopa County

Cause No. CR2008-005716-001 DT

The Honorable Christopher T. Whitten, Judge

**AFFIRMED**

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

Bruce F. Peterson, Legal Advocate Phoenix  
By Consuelo M. Ohanesian, Deputy Legal Advocate  
Attorneys for Appellant

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**T H O M P S O N**, Judge

¶1 This case comes to us as an appeal under *Anders v. California*, 386 U.S. 738 (1967), and *State v. Leon*, 104 Ariz. 297, 451 P.2d 878 (1969). Counsel for Cicero Orozco (defendant)

has advised us that, after searching the entire record, she has been unable to discover any arguable questions of law and has filed a brief requesting this court to conduct an *Anders* review of the record. Defendant has been afforded an opportunity to file a supplemental brief *in propria persona*, and he has not done so.

### FACTUAL AND PROCEDURAL HISTORY

¶2 Defendant was charged by indictment with one count of first degree premeditated murder, a class 1 dangerous felony, or, in the alternative, one count of first degree felony murder, a class 1 dangerous felony; one count of robbery, a class 4 felony; and, one count of second degree burglary, a class 3 felony. The following evidence was presented at trial.<sup>1</sup>

¶3 In January 2008, defendant and his friend, E.B., left Pinetop for Phoenix to rob their acquaintance J.W., whom they believed had over \$40,000 in his home. A third man drove the men to Phoenix. During the trip, defendant and E.B. concocted a plan for robbing J.W. The three men arrived at J.W.'s home and were allowed inside. After some time had passed, the three men

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<sup>1</sup> Our obligation in this appeal is to review "the entire record for reversible error." *State v. Clark*, 196 Ariz. 530, 537, ¶ 30, 2 P.3d 89, 96 (App. 1999). We view the facts in the light most favorable to sustaining the jury's verdict and resolve all inferences against defendant. See *State v. Guerra*, 161 Ariz. 289, 293, 778 P.2d 1185, 1189 (1989).

approached J.W. and struck him in the jaw. All three men then repeatedly struck J.W. and he was eventually detained in his living room while defendant went upstairs to J.W.'s room looking for money. Defendant then asked the two other men to bring J.W. upstairs. Once upstairs, defendant pushed J.W. to the floor and began choking J.W. with his belt. The men took boxes of cash and a jar of coins and bills from J.W.'s room. J.W. later died as a result of the blunt force trauma and strangulation he sustained during the attack. Defendant was arrested in Pinetop where a search of his person revealed \$6,110 and several \$2 bills, which J.W. was known to collect.

¶4 A jury convicted defendant of count 1, first degree murder;<sup>2</sup> count 2, robbery; and count 3, second degree burglary. The defendant was sentenced to life imprisonment for count 1; 4.5 years for count 2; and 6.5 years for count 3; all terms to be run concurrently with 468 days of presentence incarceration credit. Defendant timely appealed his conviction and sentence. We have jurisdiction pursuant to Article 6, Section 9 of the

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<sup>2</sup> Although the jury did not agree on the theory upon which they found the defendant guilty of first degree murder, eight jurors found defendant guilty of premeditated murder and eleven jurors found defendant of felony murder. See *State v. Roscoe*, 184 Ariz. 484, 498, 910 P.2d 635, 649 (1996) (holding a defendant is not entitled to unanimity on the theory of first degree murder) (citing *State v. Schad*, 163 Ariz. 411, 417, 788 P.2d 1162, 1168 (1989), *aff'd*, 501 U.S. 624 (1991)).

Arizona Constitution and Arizona Revised Statutes (A.R.S.) §§ 12-120.21(A)(1), 13-4031 and -4033(A)(1) (2010).

**DISCUSSION**

¶15 We have read and considered counsel's brief and have searched the entire 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, defendant was adequately represented by counsel at all stages of the proceedings, and the sentence imposed was within the statutory limits. Pursuant to *State v. Shattuck*, 140 Ariz. 582, 584-85, 684 P.2d 154, 156-57 (1984), defendant's counsel's obligations in this appeal are at an end.

**CONCLUSION**

¶16 We affirm the convictions and sentences.

/s/

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JON W. THOMPSON, Judge

CONCURRING:

/s/

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PATRICIA A. OROZCO, Presiding Judge

/s/

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DIANE M. JOHNSEN, Judge