

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



DIVISION ONE  
FILED: 06-03-2010  
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BY: GH

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION ONE

STATE OF ARIZONA, ) 1 CA-CR 09-0452  
)  
Appellee, ) DEPARTMENT D  
)  
v. ) **MEMORANDUM DECISION**  
) (Not for Publication -  
MIGUEL ANGEL RODRIGUEZ, ) Rule 111, Rules of the  
) Arizona Supreme Court)  
Appellant. )  
)  
\_\_\_\_\_ )

Appeal from the Superior Court in Maricopa County

Cause No. CR2008-158976-001 DT

The Honorable John R. Hannah, Judge

**AFFIRMED**

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

James J. Haas, Maricopa County Public Defender Phoenix  
By Terry Reid, Deputy Public Defender  
Attorneys for Appellant

O R O Z C O, Judge

¶1 Miguel Angel Rodriguez (Defendant) appeals his  
conviction and sentence for one count of assault, a class one

misdemeanor. Defendant's counsel filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967), and *State v. Leon*, 104 Ariz. 297, 451 P.2d 878 (1969), advising this Court that after a search of the entire appellate record, she found no arguable question of law that was not frivolous. Defendant was afforded the opportunity to file a supplemental brief *in propria persona*, but he did not do so. 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 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, and -4033.A.1 (2010).<sup>1</sup> Finding no reversible error, we affirm.

#### **FACTS AND PROCEDURAL HISTORY**

¶2 D.S. testified that on May 28, 2008, while he and another co-worker were arguing, Defendant punched him in the nose and eye area. At the request of his manager, D.S. went to the hospital. At the hospital, a nurse diagnosed D.S. with a fractured nose.

¶3 On November 6, 2008, a grand jury indicted Defendant on one count of aggravated assault, a class four felony. At a

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<sup>1</sup> We cite to the current version of the applicable statutes because no revisions material to this decision have since occurred.

pretrial conference, Defendant moved for new counsel. The trial court denied his request finding that the appointment of a new lawyer would not better Defendant's legal position.

¶4 A jury of eight and one alternate was empanelled and a two-day trial took place. During closing arguments, Defendant's attorney conceded that Defendant hit D.S. one time, but argued that Defendant did not cause the fracture to D.S.'s nose. Defendant's attorney then asked the jury to find Defendant guilty of assault, but not guilty of aggravated assault. The jury found Defendant not guilty of one count of aggravated assault, but guilty of one count of assault.<sup>2</sup> The trial court sentenced Defendant to serve ten days in jail and two-years' supervised probation, and to pay a probation service fee of \$65 per month. Defendant filed a timely notice of appeal.

#### DISCUSSION

¶5 When reviewing the record, "we view the evidence in the light most favorable to supporting the verdict." *State v. Torres-Soto*, 187 Ariz. 144, 145, 927 P.2d 804, 805 (App. 1996). We have read and considered counsel's brief and carefully

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<sup>2</sup> Although Defendant was not indicted for assault, the trial court instructed the jury that it could "consider the lesser offense of assault, if, either, [it found] the defendant not guilty of aggravated assault, or . . . [it could not] agree on whether to find the defendant guilty or not guilty of aggravated assault."

searched the entire record for reversible error and found none. *Clark*, 196 Ariz. at 541, ¶ 49, 2 P.3d at 100.

¶6 A person that intentionally, knowingly, or recklessly causes any physical injury to another person is guilty of assault. A.R.S. § 13-1204.A.1 (2010). Surveillance video at Defendant's work recorded Defendant punching D.S. in the face. All the elements necessary for assault were established by the surveillance video which was shown to the jury. Therefore, we find this evidence alone was sufficient for the jury to find Defendant guilty of assault.

¶7 All of the proceedings were conducted in compliance with the Arizona Rules of Criminal Procedure and substantial evidence supported the jury's finding of guilt. Defendant was present and represented by counsel at all critical stages of the proceedings. At sentencing, Defendant and his counsel were given an opportunity to speak and the trial court imposed a legal sentence pursuant to A.R.S. § 13-707 (2010).

¶8 Counsel's obligations pertaining to Defendant's representation in this appeal have ended. Counsel need do nothing more than inform Defendant of the status 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. *State v. Shattuck*, 140 Ariz. 582, 584-85, 684 P.2d 154, 156-57 (1984). Defendant shall have thirty days

from the date of this decision to proceed, if he so desires, with an *in propria persona* motion for reconsideration or petition for review.<sup>3</sup>

**CONCLUSION**

¶9 For the foregoing reasons, Defendant's conviction and sentence are affirmed.

/S/

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PATRICIA A. OROZCO, Presiding Judge

CONCURRING:

/S/

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DIANE M. JOHNSEN, Judge

/S/

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JON W. THOMPSON, Judge

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<sup>3</sup> Pursuant to Rule 31.18.b, Defendant or his counsel has fifteen days to file a motion for reconsideration. On the Court's own motion, we extend the time to file such a motion to thirty days from the date of this decision.