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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: 04-13-2010  
PHILIP G. URRY, CLERK  
BY: GH

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION ONE

STATE OF ARIZONA, )  
 ) No. 1 CA-CR 09-0634  
 )  
 ) DEPARTMENT D  
 Appellee, )  
 )  
 ) MEMORANDUM DECISION  
 v. )  
 ) (Not for Publication -  
 ANTHONY JOE ROMERO, ) Rule 111, Rules of the  
 ) Arizona Supreme Court)  
 Appellant. )  
 )  
 )  
 )

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Appeal from the Superior Court in Maricopa County

Cause No. CR 2009-006248-001 DT

The Honorable Steven P. Lynch, Judge *Pro Tempore*

**CONVICTIONS AND SENTENCES AFFIRMED**

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

Law Offices of Robert Gaffney Scottsdale  
By Robert Gaffney  
Attorneys for Appellant

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J O H N S E N, Judge

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

297, 451 P.2d 878 (1969), following Anthony Romero's convictions of aggravated assault, a Class 3 dangerous felony; misconduct involving weapons, a Class 4 felony; and two counts of assault, Class 1 and 3 misdemeanors. Romero's counsel searched the record on appeal and found no arguable question of law that is not frivolous. See *Smith v. Robbins*, 528 U.S. 259 (2000); *Anders*, 386 U.S. 738; *State v. Clark*, 196 Ariz. 530, 2 P.3d 89 (App. 1999). Romero was given the opportunity to file a supplemental brief but did not do so. Counsel now asks this court to search the record for fundamental error. After reviewing the entire record, we affirm Romero's convictions and sentences.

#### FACTUAL AND PROCEDURAL HISTORY

¶2 Romero and I.T. had two children together. The evening before Father's Day in 2008, I.T. and Romero were in his bedroom, I.T. holding their young child in her arms, when they began arguing.<sup>1</sup> When I.T. attempted to leave the room, Romero punched her face, creating a cut above her left eye and leaving a mark over her right eye.

¶3 The next day, M.H., the mother of five of Romero's children, brought three of them to see him. They began arguing

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<sup>1</sup> Upon review, we view the facts in the light most favorable to sustaining the jury's verdict and resolve all inferences against Romero. *State v. Fontes*, 195 Ariz. 229, 230, ¶ 2, 986 P.2d 897, 898 (App. 1998).

and Romero pushed her to the ground. He then pulled a gun and pointed it at M.H. M.H. went immediately to the police, made a report and told an officer she was afraid for her life.

¶4 Romero was charged with one count of aggravated assault, a dangerous offense; two counts of misdemeanor assault; and one count of misconduct involving weapons. The three assaults were charged as domestic violence crimes. At trial, Romero admitted a prior conviction for disorderly conduct. The jury convicted him on all four counts. He was sentenced to a mitigated sentence of six years' imprisonment on the aggravated assault conviction; the maximum sentence of three years' imprisonment for misconduct involving weapons; and six months in jail for one misdemeanor assault and 30 days in jail for the other misdemeanor assault. All sentences were set to run concurrently and Romero was given credit for 268 days of presentence incarceration.

¶5 Romero timely appealed. We have jurisdiction pursuant to Article 6, Section 9, of the Arizona Constitution and Arizona Revised Statutes sections 12-120.21(A)(1) (2003), 13-4031 (2010) and -4033 (2010).

## DISCUSSION

¶16 The record reflects Romero received a fair trial. He was represented by counsel at all stages of the proceedings against him and was present at all critical stages.

¶17 The State presented both direct and circumstantial evidence sufficient to allow the jury to convict. The jury was properly comprised of eight members with two alternates. The court properly instructed the jury on the elements of the charges, the State's burden of proof and the necessity of a unanimous verdict. The jury returned a unanimous verdict, which was confirmed by juror polling. The court received and considered a presentence report and addressed its contents during the sentencing hearing and imposed a legal sentence on the crimes of which Romero was convicted.

## CONCLUSION

¶18 We have reviewed the entire record for reversible error and find none. See *Leon*, 104 Ariz. at 300, 451 P.2d at 881.

¶19 After the filing of this decision, defense counsel's obligations pertaining to Romero's representation in this appeal have ended. Defense counsel need do no more than inform Romero of the outcome of this appeal and his future options, 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).

On the court's own motion, Romero has 30 days from the date of this decision to proceed, if he wishes, with a *pro per* petition for reconsideration. Romero has 30 days from the date of this decision to proceed, if he wishes, with a *pro per* petition for review.

/s/  
DIANE M. JOHNSEN, Judge

CONCURRING:

/s/  
PATRICIA A. OROZCO, Presiding Judge

/s/  
JON W. THOMPSON, Judge