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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: 10-21-2010
RUTH WILLINGHAM,
ACTING CLERK
BY: GH

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

STATE OF ARIZONA,) No. 1 CA-CR 09-0786
)
) DEPARTMENT B
Appellee,)
) **MEMORANDUM DECISION**
v.)
) (Not for Publication -
JUAN CARLOS QUEVEDO,) Rule 111, Rules of the
) Arizona Supreme Court)
Appellant.)
)
)

Appeal from the Superior Court in Maricopa County

Cause No. CR2009-108431-001 DT

The Honorable Lisa Brown, Judge *Pro Tempore*

CONVICTIONS AND SENTENCES 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 J. Reid, Deputy Public Defender
Attorneys for Appellant

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 Juan Carlos Quevedo's convictions on two counts of disorderly conduct, Class 6 felonies. Quevedo's counsel has 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). Quevedo 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 Quevedo's convictions and sentences.

FACTS AND PROCEDURAL HISTORY

¶2 Gloria and her two children were on their way home from a party around midnight on the evening of January 31, 2009.¹ While they were stopped at a light, a group of four to five young people began yelling and pointing toward their vehicle. Gloria testified that she saw a young man she later identified as Quevedo lift up his shirt to reveal a gun tucked into his waistband. Because the car windows were closed, the victims could not comprehend what the group was saying. At some point during the commotion the group walked over to the victims'

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

vehicle and began banging on the car windows. While the group banged on the windows, Quevedo again lifted up his shirt and pointed to the gun in his waistband. In a panic, the victims drove off and called 911. Police apprehended Quevedo on the street nearby. The victims were escorted to the location and asked if they could identify the man with a gun. All three victims positively identified Quevedo, and officers took him into custody.

¶13 Quevedo initially was charged with three counts of aggravated assault, Class 3 felonies, but the charges later were reduced to three counts of disorderly conduct, Class 6 felonies.² A jury found Quevedo guilty on two of the charges and the court sentenced him to two concurrent enhanced presumptive terms of 1.75 years' imprisonment.

¶14 Quevedo timely appealed. 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 -4033(A)(1) (2010).³

² Additionally, Quevedo was charged with one count of misconduct involving weapons. This charge was severed and Quevedo was found not guilty of that offense.

³ Absent material revisions after the date of an alleged offense, we cite a statute's current version.

DISCUSSION

¶15 The record reflects Quevedo received a fair trial. He was represented by counsel at all stages of the proceedings against him and was present at all critical stages. The State presented both direct and circumstantial evidence sufficient to allow the jury to convict. The jury properly was comprised of eight members with two alternates. The court correctly 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 unanimous verdicts, which were confirmed by juror polling and supported by substantial evidence. The court received and considered a presentence report, addressed its contents during the sentencing hearing and imposed legal sentences on the crimes of which Quevedo was convicted.

CONCLUSION

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

¶17 After the filing of this decision, defense counsel's obligations in this appeal have ended. Defense counsel only need inform Quevedo 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, Quevedo has 30 days from the date of this decision to proceed, if he wishes, with a *pro per* motion for reconsideration. Quevedo 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, Presiding Judge

CONCURRING:

/s/
MICHAEL J. BROWN, Judge

/s/
JOHN C. GEMMILL, Judge