

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



DIVISION ONE
FILED: 08/12/2010
RUTH WILLINGHAM,
ACTING CLERK
BY: GH

STATE OF ARIZONA,) 1 CA-CR 09-0857
)
Appellee,) DEPARTMENT B
)
v.) **MEMORANDUM DECISION**
) (Not for Publication -
) Rule 111, Rules of the
RAFAEL GABRIEL RODRIGUEZ,) Arizona Supreme Court)
)
Appellant.)
)

Appeal from the Superior Court in Maricopa County

Cause No. CR2009-121677-003 DT

The Honorable Cari A. Harrison, 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 J. Adams, Deputy Public Defender
Attorneys for Appellant

P O R T L E Y, Judge

¶1 This is 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 Defendant Rafael Gabriel Rodriguez has advised us that, after searching the entire record, he has been unable to discover any arguable questions of law, and has filed a brief requesting us to conduct an *Anders* review of the record. Defendant did not take the opportunity he was given to file a supplemental brief.

FACTS¹

¶2 A good neighbor heard the sound of glass breaking during the morning of March 27, 2009. She looked into her neighbor's backyard and saw that a window screen had been removed and that there was broken glass on the ground. She called 911.

¶3 The police responded and surrounded the home. After ordering the people inside to come out with their hands up, two individuals and the Defendant came out of the house. All three were arrested. The police found a television next to the front door, along with three pillow cases full of household items.

¶4 The homeowners, in the meantime, had been contacted and returned home. They did not know the Defendant, did not recognize him or the others, and had not given anyone permission to enter their home.

¹ We review the facts in the light most favorable to sustaining the verdict. See *State v. Guerra*, 161 Ariz. 289, 293, 778 P.2d 1185, 1189 (1989).

¶15 Defendant was indicted on one count of burglary in the second degree, a class 3 felony. The State alleged that he had two prior felony convictions, that the burglary was committed while he was on bond in another pending case, and that there were other aggravating factors warranting an aggravated sentence.

¶16 The case went to trial and the jury found him guilty as charged. After a trial on his prior felony convictions, the trial court found that Defendant had two prior felony convictions. He was subsequently sentenced to 11.25 years in prison and given 231 days of presentence incarceration credit.

¶17 Defendant appealed, and 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).

DISCUSSION

¶18 We have 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 no reversible error. All of the proceedings were conducted in compliance with the Arizona Rules of Criminal Procedure. The record, as presented, reveals that Defendant was represented by counsel at all stages of the proceedings, and the sentence imposed was within the statutory limits.

CONCLUSION

¶9 After this decision has been filed, counsel's obligation to represent Defendant has ended. Counsel only needs to inform Defendant of the status of the appeal and Defendant's future options, unless counsel's review reveals an issue appropriate for a petition for review to the Arizona Supreme Court. See *State v. Shattuck*, 140 Ariz. 582, 585, 684 P.2d 154, 157 (1984). Defendant, however, can file a motion for reconsideration or petition for review pursuant to the Arizona Rules of Criminal Procedure.

¶10 Accordingly, we affirm Defendant's conviction and sentence.

/s/

MAURICE PORTLEY, Judge

CONCURRING:

/s/

JOHN C. GEMMILL, Presiding Judge

/s/

PATRICIA K. NORRIS, Judge