

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: 01/26/2012
RUTH A. WILLINGHAM,
CLERK
BY: DLL

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

STATE OF ARIZONA,) No. 1 CA-CR 11-0151
)
Appellee,) DEPARTMENT C
)
v.) **MEMORANDUM DECISION**
) (Not for Publication -
FRANCISCO RAMON RUIZ,) Rule 111, Rules of the
) Arizona Supreme Court)
Appellant.)
)
_____)

Appeal from the Superior Court in Maricopa County

Cause No. CR2010-120568-002 DT

The Honorable Susan M. Brnovich, Judge

AFFIRMED

Thomas C. Horne, Arizona 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 Christopher V. Johns, Deputy Public Defender
Attorneys for Appellant

B R O W N, Judge

¶1 Francisco Ramon Ruiz appeals his convictions and sentences for one count of transportation of a dangerous drug for sale, two counts of misconduct involving weapons, and

possession of drug paraphernalia. Counsel for Ruiz 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 that after searching the record on appeal, he was unable to find any arguable grounds for reversal. Ruiz was granted the opportunity to file a supplemental brief in propria persona, but he has not done so.

¶2 Our obligation 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 conviction and resolve all reasonable inferences against Ruiz. *State v. Guerra*, 161 Ariz. 289, 293, 778 P.2d 1185, 1189 (1989). Finding no reversible error, we affirm.

¶3 In April 2010, a grand jury indicted Ruiz on one count of sale or transport of dangerous drugs, a class 2 felony, pursuant to Arizona Revised Statutes ("A.R.S.") section 13-3407(A)(7) (Supp. 2011),¹ two counts of misconduct involving weapons, class 4 felonies, pursuant to A.R.S. § 13-3102(A)(4), (8) (Supp. 2011), and one count of possession of drug paraphernalia, a class 6 felony, pursuant to A.R.S. § 13-3415(A) (2010). The following evidence was introduced at trial.

¹ We cite the current version of the statute when there has been no material change since the date of the offense.

¶14 On April 19, 2010, police officers responded to a 9-1-1 call reporting that a woman had threatened a victim with a gun and left the scene in a white Ford truck. The officers located the truck parked at a nearby convenience store and observed Ruiz sitting in the driver seat. They ordered Ruiz to exit the vehicle and lift his shirt so they could check for weapons. Ruiz complied and the officers observed an empty gun holster on his waistband. The officers then placed Ruiz in custody² and read him his *Miranda*³ rights. In response to questioning, Ruiz told one officer that a pistol had fallen out of his holster when he took off his seat belt and that there was also another gun in the vehicle. The officers checked Ruiz's identification in their computer system and learned that he had prior felony convictions.

¶15 The officers conducted a search of the vehicle, which belonged to Ruiz, and located the two guns Ruiz had told them about, as well as a third gun on the passenger side floorboard. Police further seized two scales and several baggies displaying a skull logo and containing a white crystalline substance. The officers also found at least \$200 in cash on Ruiz's person.

² The officers also arrested a woman who had accompanied Ruiz in the truck. She is not a party to this appeal.

³ See *Miranda v. Arizona*, 384 U.S. 436 (1966).

¶16 A forensic scientist testified at trial that the white substance was methamphetamine and that the amount of the drug seized from the truck was seventeen grams. A narcotics detective, testifying as an expert, opined that the quantity, packaging, and branding of the methamphetamine indicated that the drugs were possessed for sale.

¶17 The jury found Ruiz guilty as charged. The jury also found the State had proven the two aggravating factors it alleged: the offense involved the possession of a deadly weapon, and the defendant committed the offense for pecuniary gain. The court sentenced Ruiz to the presumptive terms of ten years flat time on count one, four and one-half years each on counts two and three, and 1.75 years on count four—with all terms to run concurrently. The court granted Ruiz eighty days of presentence incarceration credit. This timely appeal followed.

¶18 We have searched the entire record for reversible error and find none. All of the proceedings were conducted in accordance with the Arizona Rules of Criminal Procedure. Ruiz waived his presence for jury selection and was voluntarily absent for the last two days of trial. The record shows, however, that Ruiz was represented by counsel at all pertinent stages of the proceedings and that the evidence supports the jury's verdicts. Ruiz was present at sentencing, was afforded the opportunity to speak, and the sentence imposed was within

statutory limits. Accordingly, we affirm Ruiz's convictions and sentences.

¶9 Upon the filing of this decision, counsel shall inform Ruiz of the status of the appeal and his options. Defense counsel has no further obligations 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). Ruiz shall have thirty days from the date of this decision to proceed, if he so desires, with a *pro per* motion for reconsideration or petition for review.

/s/

MICHAEL J. BROWN, Presiding Judge

CONCURRING:

/s/

PATRICIA K. NORRIS, Judge

/s/

PHILIP HALL, Judge