

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED  
EXCEPT AS AUTHORIZED BY APPLICABLE RULES.  
See Ariz.R.Sup.Ct. 111(c); ARCAP 28(c);  
Ariz.R.Crim.P. 31.24



DIVISION ONE  
FILED: 06/14/2012  
RUTH A. WILLINGHAM,  
CLERK  
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IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION ONE

STATE OF ARIZONA, ) 1 CA-CR 11-0333  
) 1 CA-CR 11-0334  
Appellee, ) (Consolidated)  
)  
v. ) DEPARTMENT E  
)  
ELIGIO SAENZ-GARCIA, ) **MEMORANDUM DECISION**  
) (Not for Publication -  
Appellant. ) Rule 111, Rules of the  
) Arizona Supreme Court)

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Appeal from the Superior Court in Maricopa County

Cause Nos. CR2009-007430-004DT; CR2008-146898-002DT

The Honorable Joseph C. Welty, Judge

**AFFIRMED**

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Thomas C. Horne, Attorney General Phoenix  
by Kent E. Cattani, Chief Counsel,  
Criminal Appeals/Capital Litigation Division  
Attorneys for Appellee

Thomas A. Gorman Sedona  
Attorney for Appellant

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**H A L L**, Judge

¶1 Eligio Saenz-Garcia (defendant) appeals from his  
convictions and the sentences imposed. For the following  
reasons, we affirm.

¶2 Defendant's appellate 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 that, after a diligent search of the record, he was unable to find any arguable grounds for reversal. This court granted defendant an opportunity to file a supplemental brief, which he has not done. See *State v. Clark*, 196 Ariz. 530, 537, ¶ 30, 2 P.3d 89, 96 (App. 1999).

¶3 We review for fundamental error, error that goes to the foundation of a case or takes from the defendant a right essential to his defense. See *State v. King*, 158 Ariz. 419, 424, 763 P.2d 239, 244 (1988). We view the evidence presented at trial in a light most favorable to sustaining the verdict. *State v. Cropper*, 205 Ariz. 181, 182, ¶ 2, 68 P.3d 407, 408 (2003).

¶4 In July 2008, defendant was charged by indictment in CR2008-146898 with five counts: conspiracy to commit possession of narcotic drugs, a class two felony; illegal control of an enterprise, a class three felony; two counts of money laundering in the second degree, class three felonies; and possession of dangerous drugs for sale, a class two felony. In August 2009, defendant was charged by indictment in CR2009-007430 with an additional eleven counts: four counts of sale or transportation of narcotic drugs, class two felonies; three counts of money

laundering in the second degree, class three felonies; three counts of misconduct involving weapons, class four felonies; and one count of possession of dangerous drugs for sale, a class two felony.

¶15 On the state's motion, the two cases were consolidated for trial purposes. Before trial, one of the money laundering counts in CR2008-146898 and the count of possession of dangerous drugs for sale in CR2009-007430 were dismissed. The cases proceeded to trial on the remaining fourteen counts. During trial, two of the misconduct involving weapons counts were dismissed. The following evidence was presented at trial. In March 2008, police obtained court authorization to intercept telephonic communications between members of a suspected drug enterprise operating in Phoenix. Based on intercepted communications and physical surveillance of the enterprise, police learned that defendant was selling large amounts of cocaine and methamphetamine in conjunction with other members of the enterprise. Police also discovered that defendant had a "stash house" in New Mexico and that defendant and members of the enterprise transported drugs and money from the stash house to Arizona by placing the items inside of hidden compartments in their vehicles.

¶16 In June 2008, police obtained a surreptitious search warrant to enter defendant's home to look for evidence and

install cameras in his garage and outside his home. Police continued to intercept defendant's phones and conduct surveillance until July 25, 2008, when they searched defendant's home and found a scale, rubber gloves, pistol grips with defendant's last name engraved on it, and ammunition. That same day, police searched a co-conspirator's home and found twenty-three pounds of methamphetamine. Police also searched a vehicle belonging to one of the members of the drug enterprise and found approximately \$500,000 and several guns inside a hidden compartment. Throughout their investigation, police seized several pounds of cocaine and methamphetamine, as well as drug proceeds, from other members of the enterprise, whom police confirmed were working with defendant.

¶7 The jury found defendant guilty of all twelve counts. The jury also found that defendant was a serious drug offender under Arizona Revised Statutes (A.R.S.) section 13-3410 (West 2012)<sup>1</sup> as to the counts of conspiracy to commit possession of dangerous drugs and possession of dangerous drugs for sale in the 2008 indictment and the four counts of sale or transportation of dangerous drugs in the 2009 indictment. Because defendant was found to be a serious drug offender under A.R.S. § 13-3410, the trial court was required to sentence

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<sup>1</sup> Absent material revisions since the date of the offenses, we cite the current Westlaw version of applicable statutes.

defendant to life in prison on each of those counts, with no eligibility for release for twenty-five years. The court sentenced defendant to presumptive terms of imprisonment on the remaining counts, and ordered that all sentences be served concurrently. Defendant was given 1,011 days of presentence incarceration credit for the convictions based on the 2008 indictment and 607 days of pre-sentence incarceration credit for the convictions based on the 2009 indictment.

¶18 We have read and 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 none. All of the proceedings were conducted in compliance with the Arizona Rules of Criminal Procedure. Defendant was given an opportunity to speak before sentencing, and the sentences imposed were within statutory limits. Furthermore, based on our review of the record, there was sufficient evidence for the jury to find that defendant committed the offenses for which he was convicted.

¶19 After the filing of this decision, counsel's obligations pertaining to defendant's representation in this appeal have ended. Counsel need do no 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. *See State v. Shattuck*, 140 Ariz. 582, 584-85, 684 P.2d 154, 156-

57 (1984). Defendant has thirty days from the date of this decision to proceed, if he desires, with a pro per motion for reconsideration or petition for review. Accordingly, defendant's convictions and sentences are affirmed.

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\_/s/ PHILIP HALL, Judge

CONCURRING:

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\_/s/ PATRICIA A. OROZCO, Presiding Judge

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\_/s/ JOHN C. GEMMILL, Judge