

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: 05/22/2012
RUTH A. WILLINGHAM,
CLERK
BY: sls

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

STATE OF ARIZONA,) 1 CA-CR 11-0500
)
Appellee,) DEPARTMENT E
)
v.) **MEMORANDUM DECISION**
) (Not for Publication -
TATJANA CANADA,) Rule 111, Rules of the
) Arizona Supreme Court)
Appellant.)
)
)
)
_____)

Appeal from the Superior Court in Maricopa County

Cause No. CR2010-157065-001

The Honorable Barbara L. Spencer, Commissioner

AFFIRMED

Thomas C. Horne, 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 Paul J. Prato, Deputy Public Defender
Attorneys for Appellant

O R O Z C O, Judge

¶1 Tatjana Canada (Defendant) appeals her conviction and sentence for criminal trespass in the first degree, a class one misdemeanor and a domestic violence offense.

¶2 Defendant's 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 this court that after a search of the entire appellate record, he found no arguable question of law that was not frivolous. Defendant was afforded the opportunity to file a supplemental brief in propria persona, but she did not do so.

¶3 Our obligation in this appeal 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 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). Finding no reversible error, we affirm.

FACTS AND PROCEDURAL HISTORY

¶4 On the night of August 17, 2010, Defendant's estranged husband, Rick, and the woman he was dating, Linda, were eating dinner at Rick's apartment when Defendant arrived and began knocking on the door. Realizing Defendant was the person knocking on the door, Linda got up from the table and started walking to the master bedroom in the back of the apartment so

the estranged spouses could "have their conversation." As the knocking became increasingly louder and persistent, Rick answered the door because "it was becoming a nuisance." As soon as he opened the door, Defendant "bulldozed" through the entrance. Rick fell back and Defendant fell over him. Defendant saw Linda entering the master bedroom and demanded to know who she was. Rick got up and tried to block Defendant from making her way down the hallway toward the master bedroom. During the course of the altercation, a shelf was knocked over and the thermostat was ripped off the wall.

¶15 Rick testified that he repeatedly told Defendant that she was not welcome in the apartment and to leave. Linda testified that from the bedroom she heard Defendant screaming, "Who is that?" and Rick screaming, "Get out!" Rick told Linda to call the police, which she did.

¶16 Defendant made it past Rick and went straight for the master bedroom, where Linda was hiding. Rick and Linda both testified that Defendant forced her way through the bedroom door, which was locked. Linda testified that Defendant was angry at Rick and repeatedly yelled that Rick was a liar but Defendant was calm and polite when confronting Linda. Defendant and Rick continued to scream at each other, and Linda left the apartment. Shortly thereafter, Defendant also left.

¶7 Defendant was charged by indictment with criminal trespass in the first degree, a class 6 felony and a domestic violence offense. Upon the State's motion, the offense was designated a class one misdemeanor, and the case was set for a bench trial.

¶8 The trial court found Defendant guilty as charged. Defendant was sentenced to one year supervised probation with domestic violence terms. Defendant timely appealed her conviction and sentence.

DISCUSSION

Sufficiency of the Evidence

¶9 When considering the sufficiency of the evidence, "we view the evidence in the light most favorable to sustaining the verdict and reverse only if no substantial evidence supports the conviction." *State v. Pena*, 209 Ariz. 503, 505, ¶ 7, 104 P.3d 873, 875 (App. 2005). "'Substantial evidence' is evidence that reasonable persons could accept as adequate and sufficient to support a conclusion of defendant's guilt beyond a reasonable doubt." *State v. Jones*, 125 Ariz. 417, 419, 610 P.2d 51, 53 (1980).

¶10 Criminal trespass in the first degree is committed when a person knowingly enters or remains unlawfully in or on a residential structure. A.R.S. § 13-1504.A.1 (2010). Criminal trespass is classified as a domestic violence offense when the

relationship between the victim and the defendant is one of marriage or former marriage. A.R.S. § 13-3601.A.1 (2010).

¶11 The testimony at trial established that Defendant unlawfully remained in Rick's apartment after she was told to leave. Defendant and Rick testified that they were still married to each other at the time of the incident, though Rick had moved out of the marital residence. Rick testified that he was the only person named on the lease and that Defendant never lived at the apartment. Both Rick and Linda testified that Rick repeatedly told Defendant to leave the apartment but Defendant refused.

¶12 This evidence was sufficient to support the court's finding of guilt and that it was a domestic violence offense.

CONCLUSION

¶13 We have read and considered counsel's brief, carefully searched the entire record for reversible error and found none. See *Clark*, 196 Ariz. at 541, ¶ 49, 2 P.3d at 100. All of the proceedings were conducted in compliance with the Arizona Rules of Criminal Procedure, and substantial evidence supported the court's finding of guilt. Defendant was present and represented by counsel at all critical stages of the proceedings. At sentencing, Defendant and her counsel were given an opportunity to speak and the court imposed a legal sentence.

¶14 Counsel's obligations pertaining to Defendant's representation in this appeal have ended. Counsel need do nothing more than inform Defendant of the status of the appeal and her future options, unless counsel's review reveals an issue appropriate for submission to the Arizona Supreme Court by petition for review. *State v. Shattuck*, 140 Ariz. 582, 584-85, 684 P.2d 154, 156-57 (1984). Defendant shall have thirty days from the date of this decision to proceed, if she so desires, with an in propria persona motion for reconsideration or petition for review.

¶15 For the foregoing reasons, Defendant's conviction and sentence are affirmed.

/S/

PATRICIA A. OROZCO, Presiding Judge

CONCURRING:

/S/

PHILIP HALL, Judge

/S/

JOHN C. GEMMILL, Judge