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COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

THE STATE OF ARIZONA, Appellee, v. JOSHUA BARELA MINJARES, Appellant.	)	2 CA-CR 2011-0086 DEPARTMENT A MEMORANDUM DECISION Not for Publication Rule 111, Rules of the Supreme Court

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR20100173004

Honorable Terry L. Chandler, Judge

AFFIRMED

Thomas C. Horne, Arizona Attorney General
By Kent E. Cattani and Nicholas Klingerman
Tucson
Attorneys for Appellee

Harriette P. Levitt
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B R A M M E R, Judge.

¶1 Appellant Joshua Minjares appeals from his conviction for conspiracy to commit armed robbery and burglary. He asserts there was insufficient evidence that he had been "a willing participant" in the charged conspiracy. We affirm.

¶2 In reviewing a claim of insufficient evidence, we review the evidence "'in the light most favorable to sustaining the conviction'" and resolve all reasonable inferences against the defendant. *State v. Haas*, 138 Ariz. 413, 419, 675 P.2d 673, 679 (1983), *quoting State v. Tison*, 129 Ariz. 546, 552, 633 P.2d 355, 361 (1981). In September 2009, two undercover Tucson Police officers contacted Jose Parra de Haro, one of Minjares's codefendants, and arranged for him and four others to commit a home invasion to steal cocaine. Eventually two meetings between the officers and the members of Parra de Haro's "crew" were arranged, and Minjares attended and participated in both.

¶3 At the end of the second meeting, when officers felt they had the information they needed, the Special Weapons and Tactics (SWAT) team moved in and arrested everyone. The state charged Minjares with "conspiracy to commit armed robbery and/or burglary in the first degree and/or kidnapping" and sale or transfer of a dangerous drug. After a jury trial, he was convicted of conspiracy to commit armed robbery and burglary in the first degree, and the trial court suspended imposition of sentence and placed him on probation for a period of seven years, with the condition he be incarcerated for one year.

¶4 As his sole argument on appeal, Minjares asserts there was insufficient evidence to sustain his conviction, maintaining that "the best evidence in the case establishes that [he] was merely present" at the meetings related to the charged

conspiracy, "not that he was a willing participant in the conspiracy." A conviction must be supported by "substantial evidence," Ariz. R. Crim. P. 20, which is "such proof that 'reasonable persons could accept as adequate and sufficient to support a conclusion of defendant's guilt beyond a reasonable doubt.'" *State v. Mathers*, 165 Ariz. 64, 67, 796 P.2d 866, 869 (1990), *quoting State v. Jones*, 125 Ariz. 417, 419, 610 P.2d 51, 53 (1980). We will reverse a conviction for insufficient evidence "'only where there is a complete absence of probative facts to support the conviction.'" *State v. Soto-Fong*, 187 Ariz. 186, 200, 928 P.2d 610, 624 (1996), *quoting State v. Scott*, 113 Ariz. 423, 424-25, 555 P.2d 1117, 1118-19 (1976). And, evidence remains sufficient to sustain a conviction even "if reasonable minds can differ on inferences to be drawn therefrom." *State v. Landrigan*, 176 Ariz. 1, 4, 859 P.2d 111, 114 (1993).

¶5 "A person commits conspiracy if, with the intent to promote or aid the commission of an offense, such person agrees with one or more persons that at least one of them or another person will engage in conduct constituting the offense . . . ." A.R.S. § 13-1003(A). And, although "[m]ere knowledge or approval of, or acquiescence in, the object and purpose of a conspiracy without an agreement to cooperate in achieving such object or purpose does not make one a party to conspiracy," "a person who knowingly does *any* act to further the object of a conspiracy, or otherwise participates therein, is criminally liable as a conspirator." *State v. Arredondo*, 155 Ariz. 314, 317, 746 P.2d 484, 487 (1987).

¶6 In this case there was sufficient evidence to establish that Minjares was more than merely present. Minjares participated in the meetings at which the home

invasion was planned, asking a question about the amount of drugs that would be in the target house, commenting on whether the home would have a wrought iron door, and warning the officers, who would be at the target house when the invasion took place, that if he said "get down, get down because if I got to spray, I'll spray." After the SWAT team arrested everyone, officers searched Minjares's vehicle and discovered a loaded gun, a black ski mask, and gloves.

¶7 Minjares's argument on appeal essentially asks us to reweigh the evidence presented at trial. That we will not do. *Haas*, 138 Ariz. at 419, 675 P.2d at 679. Rather, we evaluate only "whether there was sufficient evidence that a rational trier of fact could have found the defendant guilty beyond a reasonable doubt." *Id.* We conclude there was, and therefore affirm Minjares's conviction and sentence.

/s/ J. William Brammer, Jr.
J. WILLIAM BRAMMER, JR., Judge

CONCURRING:

/s/ Peter J. Eckerstrom
PETER J. ECKERSTROM, Presiding Judge

/s/ Virginia C. Kelly
VIRGINIA C. KELLY, Judge