

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

FILED BY CLERK

AUG 31 2012

COURT OF APPEALS  
DIVISION TWO

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION TWO

THE STATE OF ARIZONA,	)	2 CA-CR 2011-0343
	)	DEPARTMENT B
	)	
Appellee,	)	
	)	<u>MEMORANDUM DECISION</u>
v.	)	Not for Publication
	)	Rule 111, Rules of
FERNANDO PESQUEIRA,	)	the Supreme Court
	)	
Appellant.	)	
_____	)	

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR20100939001

Honorable Michael O. Miller, Judge

AFFIRMED

\_\_\_\_\_  
Lori J. Lefferts, Pima County Public Defender  
By Lisa M. Hise

Tucson  
Attorneys for Appellant

\_\_\_\_\_  
V Á S Q U E Z, Presiding Judge.

¶1 After a jury trial, appellant Fernando Pesqueira was convicted of burglary and three counts of assault. The trial court sentenced him to a presumptive, five-year term of imprisonment on the burglary count and to “time served” on the assault charges. Counsel has filed a brief in compliance with *Anders v. California*, 386 U.S. 738 (1967), and *State v. Leon*, 104 Ariz. 297, 451 P.2d 878 (1969), stating she has reviewed the record and has been “unable to find any arguable legal issues to raise on appeal.” Counsel asks us to search the record for reversible error. Pesqueira has not filed a supplemental brief.

¶2 Viewed in the light most favorable to sustaining the verdict, the evidence was sufficient to support the jury’s findings of guilt. *See State v. Tamplin*, 195 Ariz. 246, ¶ 2, 986 P.2d 914, 914 (App. 1999). The evidence presented at trial showed that after officers from the Fugitive Investigative Strike Team and related agencies attempted to arrest Pesqueira, he fled into a friend’s apartment, shouting at the officers, “I have a gun, if anyone comes here, it will all be over.” He then cut through a wall into a neighboring apartment and emerged wearing a security guard uniform belonging to the then-absent tenant of the apartment, holding a gun, and shouting at the officers, who eventually shot him and arrested him. A gun that did not belong to the neighboring tenant was found in a vacuum cleaner bag at the tenant’s apartment. We further conclude the sentence imposed is within the statutory limit. *See* A.R.S. §§ 13-702(D), 13-707(A)(2), 13-1203(A)(2), 13-1508(A).

¶3 Pursuant to our obligation under *Anders*, we have searched the record for fundamental, reversible error and have found none. Therefore, Pesqueira's convictions and sentences are affirmed.

/s/ Garye L. Vásquez  
GARYE L. VÁSQUEZ, Presiding Judge

CONCURRING:

/s/ Philip G. Espinosa  
PHILIP G. ESPINOSA, Judge

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