

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Appellee,

v.

ALBERTO HERRERA JR.,
Appellant.

No. 2 CA-CR 2015-0405
Filed June 29, 2016

THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.

NOT FOR PUBLICATION

See Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Crim. P. 31.24.

Appeal from the Superior Court in Pima County
No. CR20144483001
The Honorable Scott Rash, Judge

AFFIRMED

COUNSEL

Steven R. Sonenberg, Pima County Public Defender
By Abigail Jensen, Assistant Public Defender, Tucson
Counsel for Appellant

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MEMORANDUM DECISION

Judge Espinosa authored the decision of the Court, in which Presiding Judge Howard and Judge Staring concurred.

ESPINOSA, Judge:

¶1 Appellant Alberto Herrera Jr., was convicted after a jury trial of first-degree burglary, two counts of aggravated assault (use of a deadly weapon or dangerous instrument), misdemeanor assault, two counts of attempted armed robbery, two counts of attempted aggravated robbery, aggravated assault (temporary but substantial disfigurement), and impersonating a law enforcement officer. The trial court sentenced Herrera to a combination of enhanced aggravated and presumptive, concurrent prison terms on counts one, two and four through ten, the longest of which were eighteen-year-terms, followed by a three-year term of supervised probation on amended count three for misdemeanor assault. Avowing she found no arguably meritorious issues to raise on appeal, appointed counsel has filed a brief in compliance with *Anders v. California*, 386 U.S. 738 (1967), *State v. Leon*, 104 Ariz. 297, 451 P.2d 878 (1969), and *State v. Clark*, 196 Ariz. 530, 2 P.3d 89 (App. 1999), asking this court to review the record for fundamental error. Herrera has not filed a supplemental brief.

¶2 The evidence presented at trial, viewed in the light most favorable to sustaining the verdicts, established Herrera and codefendants Jennifer Ortiz and Javier Cordova agreed to take cash from victims C.H. and D.H., that they knew the victims would have in their possession. *See State v. Tamplin*, 195 Ariz. 246, ¶ 2, 986 P.2d 914, 914 (App. 1999). Following C.H. home, Herrera and Ortiz identified themselves as law enforcement officers, and the victims permitted them to enter the home. Herrera and then Ortiz, later joined by Cordova, beat C.H. with a baton, and after a struggle involving C.H., D.H. and their son-in-law T.A., Herrera was subdued and restrained until sheriff's deputies arrived. This

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evidence supported the verdicts. *See* A.R.S. §§ 13-1203 (assault), 13-1204(A)(2) (aggravated assault, deadly weapon or dangerous instrument), 13-1204(A)(3) (aggravated assault, temporary but substantial disfigurement), 13-1508 (first-degree burglary), 13-1904 (armed robbery); 13-1903 (aggravated robbery); 13-2411(A) (impersonating a peace officer). The sentences were within the ranges provided in A.R.S. § 13-703, for the respective offenses, *see* 2013 Ariz. Sess. Laws., ch. 55, § 3, and were imposed in a lawful manner.

¶3 We have reviewed the record for fundamental error but have found none. The convictions and sentences imposed are therefore affirmed.