

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: 06/26/2012
RUTH A. WILLINGHAM,
CLERK
BY: sls

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

STATE OF ARIZONA,) 1 CA-CR 11-0415
)
Appellee,) DEPARTMENT A
)
v.) **MEMORANDUM DECISION**
) (Not for Publication -
) Rule 111, Rules of the
CHAD EVERET MOORE,) Arizona Supreme Court)
)
Appellant.)
)
)
)

Appeal from the Superior Court in Maricopa County

Cause No. CR2009-007607-001 DT

The Honorable Kristin C. Hoffman, Judge

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 Peg Green, Deputy Public Defender
Attorneys for Appellant

P O R T L E Y, Judge

¶1 This is an appeal under *Anders v. California*, 386 U.S.

738 (1967), and *State v. Leon*, 104 Ariz. 297, 451 P.2d 878

(1969). Counsel for Defendant Chad Everet Moore has advised us that, after searching the entire record, she has been unable to discover any arguable questions of law, and has filed a brief requesting us to conduct an *Anders* review of the record. Defendant was given an opportunity to file a supplemental brief but has not filed one.

FACTS¹

¶2 Defendant and an unidentified suspect held Salvador at gunpoint at approximately 1:00 a.m. on June 19, 2005, and used him to gain entry into one unit of the four-plex apartment he shared with his cousin, Matilde, and her family. The two men forced their way into the master bedroom where Matilde, Jose, and their son had been sleeping. The men demanded that Salvador give them his keys and money, and when he did not respond, knocked him unconscious with a gun.

¶3 Defendant subsequently forced Matilde into an empty bedroom and sexually assaulted her at gunpoint.² Jose tried to intervene, but was struck by the accomplice and held at gunpoint. Defendant's accomplice subsequently hog-tied Jose and

¹ We review the facts in the light most favorable to sustaining the verdicts. *State v. Guerra*, 161 Ariz. 289, 293, 778 P.2d 1185, 1189 (1989) (citation omitted).

² Defendant sexually assaulted the victim with his finger and penis, placed his mouth on her breast, and placed his penis in her mouth. After the assault, he washed her vagina with shampoo, rinsed her mouth with toothpaste, and left her tied up in the empty bedroom.

Salvador, who was still unconscious, with electrical cords, and took a debit card from Jose.

¶4 Defendant and his accomplice then ransacked the house. They took the keys to Salvador's truck and loaded it with items from the apartment. Before they could drive away, however, a neighbor yelled at them and they fled without the truck.

¶5 After police officers arrived, Matilde was referred to a sexual assault nurse. As part of the examination, the nurse collected samples from areas that may have contained semen, which were submitted for deoxyribonucleic acid ("DNA") testing. Defendant was identified from the samples, which prompted his indictment and arrest.

¶6 The case was tried to a jury and Defendant was convicted of: count 1, burglary in the first degree, a class two felony; count 2, armed robbery, a class two felony; counts 4, 5, and 6, kidnapping (of Salvador, Matilde, and Jose), each a class two felony; count 8, attempt to commit theft of a means of transportation, a class four felony; counts 9, 10, and 11, aggravated assault, each a class three felony; counts 13, 14, 15, and 16, sexual assault, each a class two felony; and count 17, sexual abuse, a class five felony.³ The jury also found that each offense was a dangerous felony under Arizona Revised

³ The jury acquitted Defendant of kidnapping the boy, and the court dismissed the counts of armed robbery of Salvador, and theft.

Statutes ("A.R.S.") section 13-604 (West 2005). Defendant was sentenced to the presumptive sentence for each offense, which resulted in an eighty-seven year prison term, and received 534 days of presentence incarceration credit.⁴ Defendant timely appealed and we have jurisdiction pursuant to Article 6, Section 9, of the Arizona Constitution, and A.R.S. §§ 12-120.21(A)(1), 13-4031, and -4033(A)(1) (West 2012).

DISCUSSION

¶7 We have read and considered the opening 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 represented by counsel at all stages of the proceedings, and the sentences imposed were within the statutory limits.

⁴ Defendant was sentenced to prison for 10.5 years for counts 1, 2, 4, 5, 6, and 13-16; six years for count 8; 7.5 years for counts 9-11; and three years for count 17. Counts 2, 5, and 10 were ordered to be concurrent, but consecutive to all other counts. Counts 4 and 9 were also concurrent, but consecutive to all other counts. Counts 6, 8, and 11 were concurrent, but consecutive to all other counts. Counts 13-16 were consecutive to all other counts, and count 17 was ordered to be consecutive to all other counts. The court also imposed community supervision for each count and ordered Defendant to pay \$620 in restitution to Salvador.

CONCLUSION

¶8 Accordingly, we affirm Defendant's convictions and sentences. After this decision has been filed, counsel's obligation to represent Defendant in this appeal has ended. Counsel must only inform Defendant of the status of the appeal and Defendant's future options, unless counsel identifies an issue appropriate for submission to the Arizona Supreme Court by petition for review. *State v. Shattuck*, 140 Ariz. 582, 585, 684 P.2d 154, 157 (1984). Defendant may, if desired, file a motion for reconsideration or petition for review pursuant to the Arizona Rules of Criminal Procedure.

/s/

MAURICE PORTLEY, Presiding Judge

CONCURRING:

/s/

ANN A. SCOTT TIMMER, Judge

/s/

ANDREW W. GOULD, Judge