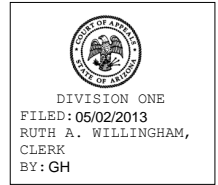


NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED
EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);
Ariz. R. Crim. P. 31.24



IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

STATE OF ARIZONA,) 1 CA-CR 11-0641
)
Appellee,) DEPARTMENT C
)
v.) **MEMORANDUM DECISION**
) (Not for Publication -
) Rule 111, Rules of the
FELIX DENNIS VASQUEZ,) Arizona Supreme Court)
)
Appellant.)
)

Appeal from the Superior Court in Maricopa County

Cause No. CR2008-031252-001

The Honorable Randall H. Warner, Judge

AFFIRMED

Thomas C. Horne, Attorney General Phoenix
by Joseph T. Maziarz, Acting Chief Counsel,
Criminal Appeals/Capital Litigation Section
Attorneys for Appellee

James J. Haas, Maricopa County Public Defender Phoenix
by Cory Engle, Deputy Public Defender
Attorneys for Appellant

T H U M M A, 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)

from Felix Dennis Vasquez's convictions of first degree murder, a Class 1 dangerous felony, armed robbery, a Class 2 dangerous felony, theft of means of transportation, a Class 3 felony, and arson of a structure, a Class 4 felony. Counsel for defendant has advised the court 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 the opportunity to file a supplemental brief but has not done so. After reviewing the entire record, Vasquez's convictions and sentences are affirmed.

FACTS AND PROCEDURAL HISTORY¹

¶12 One night in mid-October 2008, Vasquez and a friend decided to steal a car. When the two noticed a car approaching, Vasquez lay down in the street as though injured and the friend hid nearby with a shotgun. When the victim stopped his car and approached Vasquez, the friend shot the victim in the chest. The victim died from the shotgun wound.

¶13 The friend took the victim's car keys from the front pocket of the victim's pants, and Vasquez opened the car and drove the pair away from the scene. Later that night, Vasquez and the friend abandoned the car in the desert about one and one

¹ This court considers the facts in the light most favorable to sustaining the jury's verdict and resolves all inferences against Vasquez. *State v. Fontes*, 195 Ariz. 229, 230, ¶ 2, 986 P.2d 897, 898 (App. 1998).

half miles away. Vasquez and the friend piled flammable material into the passenger compartment and set the car on fire. Police recovered the shotgun nearby.

¶4 Several days after the murder, Vasquez was interviewed by police regarding a different investigation. Later that evening, Vasquez called 911 and claimed to have been present when his friend committed the murder. Two detectives met Vasquez in a park and spoke to him about the murder. Vasquez volunteered that the friend had shot the victim during a robbery and then Vasquez directed the police to the friend's house. Vasquez, who was 16 years old at the time, was read his *Miranda*² rights before being formally interviewed at the police station.

¶5 Vasquez was charged with first-degree felony murder, armed robbery, theft of means of transportation and arson of a structure. After a five-day trial, a jury found Vasquez guilty as charged. The court sentenced Vasquez to concurrent presumptive terms of (1) life imprisonment with no possibility of release for 25 calendar years for the first-degree murder conviction, (2) 10.5 years for the armed robbery conviction, (3) 3.5 years for the theft of means of transportation conviction and (4) 2.5 years for the arson conviction, with 1,040 days' presentence incarceration credit.

² *Miranda v. Arizona*, 384 U.S. 436, 86 S. Ct. 1602 (1966).

¶16 Vasquez timely appealed. This court has jurisdiction pursuant to Article 6, Section 9, of the Arizona Constitution, and Arizona Revised Statutes sections 12-120.21(A)(1), 13-4031, and -4033(A)(1).³

DISCUSSION

¶17 This court reviews Vasquez's convictions and sentences for fundamental error, an error that is clear and egregious. See *State v. Gendron*, 168 Ariz. 153, 155, 812 P.2d 626, 628 (1991). A review of counsel's brief and a full review of the record reveal no reversible error. See *Leon*, 104 Ariz. at 300, 451 P.2d at 881. The proceedings appear to have been conducted in compliance with the Arizona Rules of Criminal Procedure, Vasquez was present and represented by counsel at all stages of the proceedings and the sentence imposed was within the statutory limits. The court held appropriate pretrial hearings, including a voluntariness hearing at which the court reasonably concluded based on the totality of the circumstances that Vasquez's statements to police were voluntary. Given Vasquez's audio- and video-recorded confession and corroborating evidence presented at trial, substantial evidence supports each of Vasquez's convictions. See *State v. Davolt*, 207 Ariz. 191, 212, ¶ 87, 84 P.3d 456, 477 (2004) (substantial evidence exists when

³ Absent material revisions after the relevant dates, statutes cited refer to the current version unless otherwise indicated.

reasonable jurors could find evidence "sufficient to support a guilty verdict beyond a reasonable doubt"). Vasquez's convictions and resulting sentences are therefore affirmed.

¶18 Upon the filing of this decision, defense counsel is directed to inform Vasquez of the status of his appeal and of his future options. Defense counsel has no further obligations unless, upon review, counsel finds an issue appropriate for submission to the Arizona Supreme Court by petition for review. See *State v. Shattuck*, 140 Ariz. 582, 584-85, 684 P.2d 154, 156-57 (1984). Vasquez shall have thirty days from the date of this decision to proceed, if he desires, with a *pro se* motion for reconsideration or petition for review.

CONCLUSION

¶19 Vasquez's convictions and sentences are affirmed.

_____/S/_____
SAMUEL A. THUMMA, Judge

CONCURRING:

_____/S/_____
PHILIP HALL, Presiding Judge

_____/S/_____
PETER B. SWANN, Judge