

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: 4/16/2013  
RUTH A. WILLINGHAM,  
CLERK  
BY: mjt

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION ONE

STATE OF ARIZONA, )  
 ) No. 1 CA-CR 12-0685  
 )  
 Appellee, ) DEPARTMENT E  
 )  
 v. ) **MEMORANDUM DECISION**  
 )  
 VALENTIN ROSALES RASCON, JR., ) (Not for Publication -  
 ) Rule 111, Rules of the  
 Appellant. ) Arizona Supreme Court)  
 )  
 )

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Appeal from the Superior Court in Maricopa County

Cause No. CR2011-161397-001

The Honorable Robert E. Miles, Judge

**AFFIRMED**

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Thomas C. Horne, Arizona 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 Christopher V. Johns, Deputy Public Defender  
Attorneys for Appellant

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H A L L, Judge

¶1 Valentin Rosales Rascon, Jr. (defendant) appeals from his conviction and the sentence imposed. For the reasons set forth below, we affirm.

¶2 Defendant's appellate counsel filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967), and *State v. Leon*, 104 Ariz. 297, 451 P.2d 878 (1969), advising that, after a diligent search of the record, he was unable to find any arguable grounds for reversal. This court granted defendant an opportunity to file a supplemental brief, which he has not done. See *State v. Clark*, 196 Ariz. 530, 537, ¶ 30, 2 P.3d 89, 96 (App. 1999).

¶3 We review the entire record for fundamental error, error that goes to the foundation of a case or takes from the defendant a right essential to his defense. See *State v. King*, 158 Ariz. 419, 424, 763 P.2d 239, 244 (1988). We view the evidence presented at trial in a light most favorable to sustaining the verdict. *State v. Cropper*, 205 Ariz. 181, 182, ¶ 2, 68 P.3d 407, 408 (2003).

¶4 Defendant was charged by indictment with one count of unlawful flight from law enforcement vehicle, a class 5 felony.

¶5 The following evidence was presented at trial. On December 4, 2011, Officer Darrell Raets of the Phoenix Police Department was in a shopping center parking lot with a

shoplifter in custody. While with the shoplifter, the officer observed defendant and another passenger ride past him on an all terrain vehicle (ATV). Officer Raets noticed that the ATV did not have a license plate and was designed for only one rider. Because the officer had a suspect in custody on an unrelated matter, he did not attempt to stop defendant at that time.

¶16 Later in his shift, however, the officer again observed the same two people traveling in the ATV northbound on 75<sup>th</sup> Avenue. Officer Raets again observed that the vehicle did not have a license plate. The officer followed the ATV into a neighborhood, came within 20 to 30 feet of the vehicle, and activated his overhead lights and siren. The officer stated that both the defendant and his passenger looked back and made eye contact with him, and then the ATV accelerated. A chase ensued. Defendant failed to stop at several stop signs and nearly hit another vehicle. He then drove through a park, exited the park and lost control of the ATV. At that point, Officer Raets detained defendant and advised him of his *Miranda*<sup>1</sup> rights.

¶17 Officer Raets asked defendant why he ran and he said "I don't know. It was stupid." Defendant also told the officer that "his girlfriend made him do it because she thought she had a warrant."

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<sup>1</sup> *Miranda v. Arizona*, 384 U.S. 436 (1966).

¶18 After a two-day trial, the jury found defendant guilty as charged. The trial court sentenced defendant to one year unsupervised probation.

¶19 We have read and considered counsel's 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 given an opportunity to speak before sentencing, and the sentence imposed was within statutory limits. Furthermore, based on our review of the record, there was sufficient evidence for the jury to find that defendant committed the offense for which he was convicted.

¶10 After the filing of this decision, counsel's obligations pertaining to defendant's representation in this appeal have ended. Counsel need do no more than inform defendant of the status of the appeal and his future options, unless counsel's review reveals 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). Defendant has thirty days from the date of this decision to proceed, if he desires, with a pro per motion for reconsideration or petition for review. Accordingly, defendant's conviction and sentence are affirmed.

  /s/    
PHILIP HALL, Judge

CONCURRING:

  /s/    
MARGARET H. DOWNIE, Presiding Judge

  /s/    
MAURICE PORTLEY, Judge