

NOTICE: NOT FOR OFFICIAL PUBLICATION.
UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL
AND MAY BE CITED ONLY AS AUTHORIZED BY RULE.

IN THE
ARIZONA COURT OF APPEALS
DIVISION ONE

STATE OF ARIZONA, *Appellee*,

v.

JOSE LUIS SOTO, *Appellant*.

No. 1 CA-CR 15-0493
FILED 7-19-2018

Appeal from the Superior Court in Maricopa County
No. CR2012-144936-001
The Honorable Karen A. Mullins, Judge

AFFIRMED AS MODIFIED

COUNSEL

Arizona Attorney General's Office, Phoenix
By Joseph T. Maziarz
Counsel for Appellee

Janelle A. McEachern, Chandler
Counsel for Appellant

MEMORANDUM DECISION

Chief Judge Samuel A. Thumma delivered the decision of the Court, in
which Presiding Judge Kent E. Cattani and Judge Randall M. Howe joined.

STATE v. SOTO
Decision of the Court

T H U M M A, Chief Judge:

¶1 This is an appeal under *Anders v. California*, 386 U.S. 738 (1967) and *State v. Leon*, 104 Ariz. 297 (1969). Counsel for appellant Jose Luis Soto has advised the court that, after searching the entire record, she has found no arguable question of law, and asks this court to conduct an *Anders* review of the record. Soto was given the opportunity to file a supplemental brief pro se, but has not done so. This court has reviewed the record and has found no reversible error. Accordingly, Soto's convictions and resulting sentences are affirmed, with the order of confinement on Count 5 modified to reflect the 16-year prison term imposed at sentencing.

FACTS¹ AND PROCEDURAL HISTORY

¶2 In 2014, Soto was charged by indictment with four counts of sexual conduct with a minor, each a Class 2 felony and a dangerous crime against children (DCAC) (Counts 1, 3, 4, and 7); one count of molestation of a child, a Class 2 felony and a DCAC (Count 5); two counts of kidnapping, each a Class 2 felony and a DCAC (Counts 2 and 6); two counts of sexual assault, each a Class 2 felony (Counts 9 and 12); and three counts of sexual abuse, each a Class 5 felony (Counts 8, 10, and 11).

¶3 As alleged in the indictment, the offenses as to victim I.B. (Counts 1, 2, 3, and 4) occurred between September 1, 2007 and March 31, 2008, when she would have been 8 or 9 years old. As to victim D.S. (Counts 5 and 6), the offense dates were between January 1, 2011 and December 15, 2011, when she would have been 14 years old. As to victim A.S., the offense date for Count 7 was November 25, 2011, when she would have been 11 years old. As to victim P.A., the offense dates for Counts 8, 9, 10 and 11 were December 2011; and the offense date for Count 12 was in June 2012, when the victim would have been 15 years old.

¶4 During the 12-day trial, the State offered testimony of the grandmother of three of the victims; the Mothers of two of the victims; the Father of one victim; a pediatric nurse; three police officers; three detectives;

¹ This court views the facts "in the light most favorable to sustaining the verdict, and resolve[s] all reasonable inferences against the defendant." *State v. Rienhardt*, 190 Ariz. 579, 588-89 (1997) (citation omitted).

STATE v. SOTO
Decision of the Court

and an expert on forensic interviews and child abuse. All four of the victims also testified.

¶5 When the State rested, Soto unsuccessfully moved for a judgment of acquittal on all counts. *See* Ariz. R. Crim. P. 20 (2018).² Soto elected not to testify or offer any affirmative evidence, as was his right. After the close of evidence, the court read final jury instructions and counsel presented closing arguments. After deliberation, the jury found Soto not guilty of Count 10, but otherwise found him guilty as charged. When polled, each juror confirmed these were the true verdicts.

¶6 Before sentencing, the superior court received a presentence report. At sentencing, the court heard victim statements and from family members of the victims. The court also heard from Soto's family members. Soto was afforded the opportunity to address the court and he briefly responded by praying for others in the courtroom and thanking God. The court sentenced Soto to presumptive prison terms on 5 counts (the longest of which was life in prison) and less than presumptive on 6 counts, with a combination of concurrent and consecutive terms, and properly crediting him with 524 days of presentence incarceration.

¶7 This court has jurisdiction over Soto's timely appeal pursuant to Article 6, Section 9, of the Arizona Constitution and Arizona Revised Statutes (A.R.S.) sections 12-120.21(A)(1), 13-4031 and 13-4033(A).

DISCUSSION

¶8 Counsel for Soto advised this court that after a search of the entire record, counsel found no arguable question of law. This court has reviewed and considered counsel's brief and has searched the entire record for reversible error. *See State v. Clark*, 196 Ariz. 530, 537 ¶ 30 (App. 1999). Searching the record and brief reveals no reversible error.

¶9 The record shows Soto was represented by counsel at all stages of the proceedings and counsel was present at all critical stages. The record provided also shows there was substantial evidence supporting Soto's convictions and sentences. From the record, all proceedings were conducted in compliance with the Arizona Rules of Criminal Procedure,

² Absent material revisions after the relevant dates, statutes and rules cited refer to the current version unless otherwise indicated.

STATE v. SOTO
Decision of the Court

and the consequences imposed were within the statutory limits and permissible range.³

CONCLUSION

¶10 This court has read and considered counsel's brief, and has searched the record provided for reversible error and has found none. *Leon*, 104 Ariz. at 300; *Clark*, 196 Ariz. at 537 ¶ 30. Accordingly, Soto's convictions and resulting sentences are affirmed, with the order of confinement on Count 5 modified to reflect the 16-year prison term imposed at sentencing.

¶11 Upon filing of this decision, defense counsel is directed to inform Soto of the status of the appeal and of his future options. Defense counsel has no further obligations unless, upon review, counsel identifies an issue appropriate for submission to the Arizona Supreme Court by petition for review. *See State v. Shattuck*, 140 Ariz. 582, 584-85 (1984). Soto shall have 30 days from the date of this decision to proceed, if he desires, with a pro se motion for reconsideration or petition for review.



AMY M. WOOD • Clerk of the Court
FILED: AA

³ At sentencing, and as reflected in the resulting minute entry, the court imposed a 16-year prison term on Count 5. The order of confinement, however, reflects 17 years in prison for Count 5. Given this discrepancy, and the record in this case, the court modifies the order of confinement to reflect the 16-year prison term for Count 5. *See State v. Ovante*, 231 Ariz. 180, 188 ¶ 38 (2013) (noting the “[o]ral pronouncement in open court controls over the minute entry,” and discrepancy can be resolved on appeal without remand when it “can be clearly resolved by looking at the record”) (citation omitted).