

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL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.

ALDOLFO OSCAR MONGE, *Appellant*.

No. 1 CA-CR 18-0309
FILED 12-18-2018

Appeal from the Superior Court in Maricopa County
No. CR2014-002659-001
The Honorable Mark H. Brain, Judge

AFFIRMED

COUNSEL

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

By Nicole Countryman
Counsel for Appellant

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MEMORANDUM DECISION

Judge Jon W. Thompson delivered the decision of the Court, in which Presiding Judge Jennifer M. Perkins and Judge Lawrence F. Winthrop joined.

THOMPSON, Judge:

¶1 This case comes to us as an appeal under *Anders v. California*, 386 U.S. 738 (1967), and *State v. Leon*, 104 Ariz. 297 (1969). Counsel for Adolfo Oscar Monge (defendant) has advised us that, after searching the entire record, she has been unable to discover any arguable questions of law and has filed briefs requesting this court to conduct an *Anders* review of the records. Defendant has been afforded an opportunity to file a supplemental brief *in propria persona*, but he did not do so.

¶2 Defendant shot the victim in the chest while he was standing in the parking lot of a Phoenix apartment complex in November 2005. When police arrived, the victim was already dead. M.M., who was in a romantic relationship with defendant at the time of the shooting, witnessed defendant shoot the victim. M.M. had been in the driver's seat of her car when the victim attempted to flirt with her. She asked defendant to get the victim away from her, and defendant shot the victim. Defendant then got in M.M.'s car and told her to drive away. M.M. testified that defendant realized he left his cell phone at the scene, but did not want to turn around to retrieve it. A cell phone with defendant's DNA on it was found at the scene.

¶3 The state charged defendant with second degree murder, a class 1 felony. A jury found defendant guilty. As aggravating factors, the jury found defendant committed a dangerous offense and caused emotional or financial harm to the victim's family. For mitigation, the trial court considered defendant's family support and minimal criminal history at the time of the shooting. The court sentenced defendant to nineteen years in prison, with 1,246 days of presentence incarceration credit, and ordered him to pay restitution.

¶4 We have read and considered counsel's brief and have searched the entire record for reversible error. *See Leon*, 104 Ariz. at 300. We find none. All of the proceedings were conducted in compliance with

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the Arizona Rules of Criminal Procedure. So far as the record reveals, defendant was adequately represented by counsel at all stages of the proceedings, and the sentence imposed was within the statutory limits. Pursuant to *State v. Shattuck*, 140 Ariz. 582, 584-85 (1984), defendant's counsel's obligations in this appeal are at an end. Defendant has thirty days from the date of this decision in which to proceed, if he so desires, with an *in propria persona* motion for reconsideration or petition for review.

¶5 We affirm the conviction and sentence.



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