

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL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

OMAR MIRANDA AGUILAR, *Appellant*.

No. 1 CA-CR 21-0023
FILED 9-30-2021

Appeal from the Superior Court in Maricopa County
No. CR2019-154750-001
The Honorable Jay R. Adleman, Judge

AFFIRMED

COUNSEL

Arizona Attorney General's Office, Phoenix
By Linley Wilson
Counsel for Appellee

Maricopa County Public Defender's Office, Phoenix
By Paul J. Prato
Counsel for Appellant

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MEMORANDUM DECISION

Chief Judge Kent E. Cattani delivered the decision of the Court, in which Judge Samuel A. Thumma and Judge Brian Y. Furuya joined.

C A T T A N I, Chief Judge:

¶1 Omar Miranda Aguilar appeals his convictions and sentences for aggravated assault and unlawful discharge of a firearm. Aguilar’s counsel filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967), and *State v. Leon*, 104 Ariz. 297 (1969), certifying that, after a diligent search of the record, he found no arguable question of law that was not frivolous. Aguilar was given the opportunity to file a supplemental brief but did not do so. Counsel asks this court to search the record for reversible error. *See State v. Clark*, 196 Ariz. 530, 537, ¶ 30 (App. 1999). After reviewing the record, we affirm Aguilar’s convictions and sentences.

FACTS AND PROCEDURAL BACKGROUND

¶2 One evening in late 2019, Aguilar was involved in a series of altercations at a house in Phoenix. At the time, Aguilar lived there with his girlfriend, J., and her brother M.M., among others.

¶3 That evening, M.M.’s ex-girlfriend A.T. came by the house. At some point, Aguilar and A.T.’s brother got into a fight, and as her brother ran away, Aguilar ran into the house. A.T. and J. then started physically fighting, and Aguilar came back outside with a gun. Aguilar grabbed A.T., threatened to kill her brother, then struck her across the face with the handgun, causing injuries including a fractured orbital bone, a cracked tooth, and a broken nose. M.M. then started arguing with Aguilar, and Aguilar pointed the gun toward the ground and fired a round. Aguilar was arrested later that evening.

¶4 The State charged Aguilar with aggravated assault (causing a physical injury using a deadly weapon or dangerous instrument) as to A.T., *see* A.R.S. §§ 13-1203(A)(1), -1204(A)(2), aggravated assault (reasonable apprehension using a deadly weapon or dangerous instrument) as to M.M., *see* A.R.S. §§ 13-1203(A)(2), -1204(A)(2), unlawful discharge of a firearm within city limits, *see* A.R.S. § 13-3107(A), and misconduct involving weapons (prohibited possessor), *see* A.R.S. § 13-3102(A)(4). The

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misconduct-involving-weapons count was later dismissed at the State's request.

¶5 The jury acquitted Aguilar of aggravated assault as to M.M., but found him guilty of aggravated assault as to A.T. and of unlawful discharge of a firearm. The jury further found two aggravating circumstances as to the aggravated assault conviction and that both offenses were committed while Aguilar was on felony probation. The superior court later found that Aguilar had previously been convicted of six felonies, several of which qualified as historical prior felony convictions. *See* A.R.S. § 13-105(22)(d). The court sentenced him as a category three repetitive offender to concurrent terms of imprisonment, the longer of which is a slightly more-than-presumptive term of 12.5 years. *See* A.R.S. § 13-703(J). The court ordered that the prison terms for the current offenses run consecutive to the sentences imposed on revocation of Aguilar's probation, *see* A.R.S. § 13-708(E), and all presentence incarceration credit was applied to the probation-revocation cases. Aguilar timely appealed.

DISCUSSION

¶6 We have read and considered counsel's brief and have reviewed the record for reversible error. *See Leon*, 104 Ariz. at 300. We find none.

¶7 Aguilar was present and represented by counsel at all stages of the proceedings against him. The record reflects that the superior court afforded Aguilar all his constitutional and statutory rights, and that the proceedings were conducted in accordance with the Arizona Rules of Criminal Procedure. The court conducted appropriate pretrial hearings, and the evidence presented at trial was sufficient to support the jury's verdicts. Aguilar's sentences fall within the ranges prescribed by law.

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CONCLUSION

¶8 Aguilar's convictions and sentences are affirmed. After the filing of this decision, defense counsel's obligations pertaining to Aguilar's representation in this appeal will end after informing Aguilar of the outcome of this 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 (1984). On the court's own motion, Aguilar has 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