

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



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FILED: 03/25/2010  
PHILIP G. URRY, CLERK  
BY: GH

STATE OF ARIZONA, ) 1 CA-CR 09-0603  
)  
Appellee, ) DEPARTMENT B  
)  
v. ) MEMORANDUM DECISION  
)  
WILLIE CRESPO, )  
) (Not for Publication -  
Appellant. ) Rule 111, Rules of the  
) Arizona Supreme Court)  
)  
)  
)  
)

Appeal from the Superior Court in Maricopa County

Cause No. CR2008-159369-001 SE

The Honorable Steven K. Holding, Judge Pro Tem

**AFFIRMED**

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Terry Goddard, 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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**B A R K E R**, Judge

¶1 Willie Crespo ("Crespo") appeals from his conviction for a single count of aggravated assault as a domestic violence offense. Crespo was sentenced on July 20, 2009, and timely filed a notice of appeal on August 7, 2009. Crespo's 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 this court that after searching the entire record on appeal, he finds no arguable ground for reversal. Crespo was granted leave to file a supplemental brief *in propria persona* on or before February 22, 2010, and did not do so.

¶2 We have jurisdiction pursuant to Article 6, Section 9 of the Arizona Constitution and Arizona Revised Statutes ("A.R.S.") sections 12-120.21(A)(1) (2003), 13-4031 (2001), and 13-4033(A)(1) (2001). We are required to search the record for reversible error. *Anders*, 386 U.S. at 744. Because we find no such error, we affirm.

#### ***Facts and Procedural Background***

¶3 Crespo and the victim, M.A., are friends and were roommates at the time of the incident. On September 20, 2008, Crespo called M.A. to ask her to pick him up from a bar because he was intoxicated and did not want to ride his bike home. M.A. picked up Crespo in her Chevy Aveo hatchback, and Crespo placed his bike in the hatchback area. On the way home, Crespo used

"abusive words," but M.A. testified that these did not affect her because she knew "[i]t was the alcohol speaking."

¶14 Once at home, M.A. asked Crespo to get his bike out of the vehicle so that she could go to the movies. Crespo responded by throwing the bike in the middle of the lawn. When M.A. attempted to pick up the bike, Crespo grabbed the bike and this time threw it in the middle of the street. M.A., again, attempted to pick up the bike, but Crespo approached her before she could move the bike.

¶15 Ultimately, M.A. fell to the ground and sustained a broken femur. There are two different accounts of what caused M.A. to fall. According to M.A., Crespo stepped between her and the bike with his back facing her chest. Next, Crespo began to swing back and forth until his "shoulder or elbow hit" her. The hit occurred while M.A. was in the process of stepping away, which she claimed made it easier for her to lose her balance.

¶16 The other account of the fall is from a witness, K.B., who observed the incident from across the street. According to K.B., as M.A. was trying to pick up the bike from the middle of the street, Crespo faced her and "took his hands and put them on her and [threw] her on to the ground."

¶17 While M.A. pulled herself to the curb, Crespo went into the house, and K.B. called 911. As the police arrived, Crespo came out of the house and placed a jacket over M.A.

¶18 Officer J.S. testified that at the scene, with Crespo at her side, M.A. stated that "nothing happened." Once at the hospital, he interviewed her again. At that interview, according to Officer J.S.'s testimony, M.A. stated that Crespo pushed her and that she would be willing to aid in the prosecution. At trial, however, M.A. denied communicating this to Officer J.S. Instead, M.A. testified that she was at the trial on behalf of Crespo.

¶19 At the conclusion of the trial, an eight-person jury convicted Crespo of one count of aggravated assault as a domestic violence offense. At sentencing, the trial court provided Crespo an opportunity to speak and then ordered him placed on two years supervised probation.

#### ***Disposition***

¶10 We have reviewed the record and have found no meritorious grounds for reversal of Crespo's conviction or modification of the sentence imposed. *See Anders*, 386 U.S. at 744; *Leon*, 104 Ariz. at 300, 451 P.2d at 881. Crespo was present at all critical stages of the proceedings and was represented by counsel. All proceedings were conducted in accordance with the Arizona Rules of Criminal Procedure. Accordingly, we affirm.

¶11 After the filing of this decision, counsel's obligations in this appeal have ended subject to the following.

Counsel need do no more than inform Crespo of the status of the appeal and Crespo's future options, unless counsel's review reveals an issue appropriate for submission to the Arizona Supreme Court by petition for review. *State v. Shattuck*, 140 Ariz. 582, 584-85, 684 P.2d 154, 156-57 (1984). Crespo 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.

/s/

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DANIEL A. BARKER, Judge

CONCURRING:

/s/

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PATRICIA K. NORRIS, Presiding Judge

/s/

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PETER B. SWANN, Judge