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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: 01/25/2011  
RUTH WILLINGHAM,  
ACTING CLERK  
BY: GH

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION ONE

STATE OF ARIZONA, ) No. 1 CA-CR 10-0326  
)  
Appellee, ) DEPARTMENT B  
)  
v. ) **MEMORANDUM DECISION**  
) (Not for Publication -  
CARLOS SANTOS HERRERA, ) Rule 111, Rules of the  
) Arizona Supreme Court)  
Appellant. )  
)  
\_\_\_\_\_ )

Appeal from the Superior Court in Maricopa County

Cause No. CR2009-159852-001 DT

The Honorable Edward O. Burke, Judge

**AFFIRMED**

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Thomas C. Horne, Arizona Attorney General Phoenix  
By Kent E. Cattani, Chief Counsel  
Criminal Appeals and Capital Litigation Section  
Attorneys for Appellee

James Haas, Maricopa County Public Defender Phoenix  
By Terry J. Adams, Deputy Public Defender  
Attorneys for Appellant

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**B R O W N**, Judge

¶1 Carlos Santos Herrera appeals his conviction and sentence for one count of unlawful flight from a law enforcement

vehicle. Counsel for Herrera 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 searching the record on appeal, he was unable to find any arguable grounds for reversal. Herrera was granted the opportunity to file a supplemental brief in propria persona, but he has not done so.

¶2 Our obligation is to review the entire record for reversible error. *State v. Clark*, 196 Ariz. 530, 537, ¶ 30, 2 P.3d 89, 96 (App. 1999). We view the facts in the light most favorable to sustaining the conviction and resolve all reasonable inferences against Herrera. *State v. Guerra*, 161 Ariz. 289, 293, 778 P.2d 1185, 1189 (1989). Finding no reversible error, we affirm.

¶3 In September 2009, Herrera was charged with one count of unlawful flight from law enforcement, a class 5 felony in violation of Arizona Revised Statutes section 28-622.01 (2004).<sup>1</sup> The following evidence was presented at trial.

¶4 Police officers approached a gas station parking lot where several young people had gathered and seemed to be loitering. The officers used their vehicle public address system and asked the group to disband. One of Herrera's

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<sup>1</sup> Absent material revisions after the date of an alleged offense, we cite the statute's current version.

acquaintances leapt over the hood of Herrera's car, and got into the passenger seat, and Herrera and the passenger sped away without yielding before pulling into the roadway. The officers followed and the vehicle stopped in a parking lot at the intersection of 75th Avenue and Indian School Road. When the officers reached the rear section of the car, Herrera sped away. The officers did not pursue, but notified other law enforcement personnel in the area to be on the lookout for the automobile. Shortly thereafter, the officers heard a vehicle traveling at a high rate of speed in a residential area. While approaching a traffic light at approximately 71st Avenue and Indian School, they witnessed Herrera exit the residential area, run a red light, and hit a curb, causing significant damage to his vehicle.

¶15 The officers continued to pursue Herrera, whose vehicle was slowing down significantly due to the damage. When the vehicle was almost stopped, the officers pulled Herrera out of the vehicle and applied the emergency brake to bring the vehicle to a complete stop. They took Herrera into custody, but the passenger was no longer in the vehicle.

¶16 Herrera testified that he did speed away from the officers at the initial stop, but he did it at the request of his passenger, who had a gun. He stated that the passenger with the gun jumped out of the vehicle during the pursuit. He also

testified that he did not stop for the officers because the vehicle had been structurally damaged.

¶17 The jury found Herrera guilty as charged. The court sentenced him to two years probation and this timely appeal followed.

¶18 We have searched the entire record for fundamental error and find none. All of the proceedings were conducted in accordance with the Arizona Rules of Criminal Procedure. The record shows Herrera was present and represented by counsel at all pertinent stages of the proceedings, was afforded the opportunity to speak before sentencing, and the sentence imposed was within statutory limits. Accordingly, we affirm Herrera's conviction and sentence.

¶19 Upon the filing of this decision, counsel shall inform Herrera of the status of the appeal and his options. Defense counsel has no further obligations unless, upon review, counsel finds 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). Herrera shall have thirty days from the date of this decision to proceed, if he so desires, with a pro per motion for reconsideration or petition for review.

/s/

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MICHAEL J. BROWN, Judge

CONCURRING:

/s/

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DIANE M. JOHNSEN, Presiding Judge

/s/

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JOHN C. GEMMILL, Judge