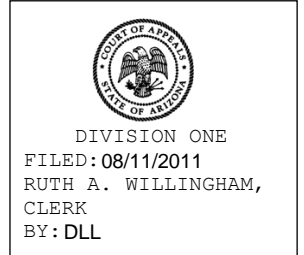


NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED  
EXCEPT AS AUTHORIZED BY APPLICABLE RULES.  
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);  
Ariz. R. Crim. P. 31.24

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION ONE



STATE OF ARIZONA, ) 1 CA-CR 10-0922  
)  
Appellee, ) DEPARTMENT B  
)  
v. ) **MEMORANDUM DECISION**  
)  
ARMANDO ANACLETO-STANFORD, )  
) (Not for Publication -  
) Rule 111, Rules of the  
) Arizona Supreme Court)  
)  
)  
)  
)  
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)

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Appeal from the Superior Court in Maricopa County

Cause No. CR2009-134945-004

The Honorable Michael W. Kemp, Judge

**AFFIRMED**

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Thomas Horne, 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 Stephen R. Collins, Deputy Public Defender  
Attorneys for Appellant

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

¶1 Armando Anacleto-Stanford, Appellant, appeals from his convictions and sentences for one count of kidnapping, a class 2

felony; one count of smuggling, a class 2 felony; and one count of misconduct involving weapons, a class 2 felony. Appellant was sentenced on November 10, 2010, and timely filed a notice of appeal on November 17, 2010. Appellant'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. Appellant was granted leave to file a supplemental brief *in propria persona* on or before July 5, 2011, but did not do so. Appellant did request, however, that his counsel raise the issue of insufficiency of the evidence.

¶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 (2010), and 13-4033(A) (2010). We are required to search the record for reversible error. Finding no such error, we affirm.

#### ***Facts and Procedural Background***<sup>1</sup>

¶3 On May 24, 2009, Appellant was arrested while running from a SWAT raid on a drophouse in Phoenix. The police found him with \$700 cash and pieces of paper listing phone numbers and

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<sup>1</sup> We review the facts in the light most favorable to sustaining the jury's verdict and resolve all reasonable inferences against Appellant. *State v. Fontes*, 195 Ariz. 229, 230, ¶ 2, 986 P.2d 897, 898 (App. 1998).

names. Appellant was charged with kidnapping, smuggling, and misconduct involving weapons.

¶14 At trial, a victim who had been held captive in the drophouse, testified that while living in Mexico he met an individual who said that he could bring the victim to the United States for a fee of \$2000. After crossing the United States border, he was taken to a house where he was greeted by a person holding a rifle. The victim was told to kneel down and surrender his personal belongings. The victim testified that there were four individuals guarding the house and that Appellant was one of them. The guards held the victim and others in the house while attempting to obtain more money from them. The victim testified that the guards had raised the price of his transfer to the United States from \$2000 to \$3500. After his arrest, Appellant also admitted that he had crossed the border illegally and that he had held a gun in his hands at one point while he was in the drophouse.

¶15 Appellant argued that the defense of duress applied to his actions. He testified that he had agreed to pay smugglers \$1500 to transport him from Mexico to the United States. After the transport, the smugglers refused to release him from the drophouse until he paid them \$3000. Because he was unable to obtain the money, he agreed to work for the smugglers as a cook to avoid physical harm.

¶16 The jury found Appellant guilty of kidnapping, but they found it to be a non-dangerous offense. The jury also found Appellant guilty of smuggling and misconduct involving weapons. The trial judge sentenced Appellant to presumptive terms of 5 years for the kidnapping conviction and 2.5 years each for the smuggling and weapons convictions, all to be served concurrently. This appeal followed.

### ***Discussion***

¶17 Appellant has requested through his counsel that we address whether the record contained sufficient evidence to convict Appellant. Our review of the record reveals that it does.

¶18 The elements of the crime of kidnapping can be satisfied if the defendant knowingly restrains another person with the intent to hold the victim for ransom, as a shield, or hostage. A.R.S. § 13-1304(A)(1). Here, the victim testified that he was restrained in the drophouse for ransom. The victim also testified that Appellant was acting as a guard in the home where he was being held. Therefore, there was sufficient evidence for the jury to convict Appellant of kidnapping.

¶19 The crime of smuggling can be proven by showing that the defendant transported, or procured the transportation of a person who the defendant knows or has reason to know is not a United States citizen, permanent resident alien, or person

otherwise lawfully in Arizona. A.R.S. § 13-2319(A), (F)(3). A defendant may "procure transportation" by providing services that facilitate the transportation. A.R.S. § 13-2319(F)(2). Here, Appellant admitted to working as a cook for the smugglers. He also knew or should have known that the people being smuggled were not lawfully in the country, as he had claimed that he had been smuggled into the country illegally by the same individuals. Therefore the record contained sufficient evidence to convict Appellant of smuggling.

¶10 Finally, a defendant may be convicted of misconduct involving weapons if the State proves that the defendant knowingly possesses a deadly weapon and the defendant is a prohibited possessor. A.R.S. § 13-3102(A)(4). Here, the parties stipulated that Appellant was a prohibited possessor. Appellant also admitted to holding a gun while he was at the drop house, thus having direct physical control over a deadly weapon. Therefore, the record also contained sufficient evidence to convict Appellant on this count.

### ***Conclusion***

¶11 We have reviewed the record and have found no meritorious grounds for reversal of Appellant's convictions. *See Anders*, 386 U.S. at 744; *Leon*, 104 Ariz. at 300, 451 P.2d at 881. Appellant was present or his presence was waived at all critical stages of the proceedings, and he was represented by

counsel. All proceedings were conducted in accordance with the Arizona Rules of Criminal Procedure. Accordingly, we affirm the convictions and sentences.

¶12 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 Appellant of the status of the appeal and Appellant'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). Appellant 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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PETER B. SWANN, Presiding Judge

/s/

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PATRICIA K. NORRIS, Judge