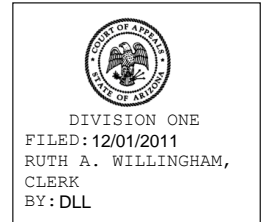


NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED  
EXCEPT AS AUTHORIZED BY APPLICABLE RULES.  
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);  
Ariz. R. Crim. P. 31.24

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION ONE



STATE OF ARIZONA, ) No. 1 CA-CR 10-1031  
)  
Appellee, ) DEPARTMENT E  
)  
v. ) MEMORANDUM DECISION  
)  
HUDA HAFEEZAH MUHAMMAD, ) (Not for Publication -  
) Rule 111, Rules of the  
Appellant. ) Arizona Supreme Court)  
)  
\_\_\_\_\_ )

Appeal from the Superior Court in Maricopa County

Cause No. CR2010-109517-001 DT

The Honorable Lisa Ann Vandenberg, Judge *Pro Tempore*

**AFFIRMED**

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Thomas C. Horne, 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 Terry J. Reid, Deputy Public Defender  
Attorneys for Appellant

Huda Hafeezah Muhammad Phoenix  
Appellant

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J O H N S E N, Judge

¶1 This appeal was timely filed in accordance with *Anders v. California*, 386 U.S. 738 (1967), and *State v. Leon*, 104 Ariz. 297, 451 P.2d 878 (1969), following Huda Hafeezah Muhammad's conviction of two counts of disorderly conduct, Class 1 misdemeanors. Muhammad's counsel has searched the record on appeal and found no arguable question of law that is not frivolous. See *Smith v. Robbins*, 528 U.S. 259 (2000); *Anders*, 386 U.S. 738; *State v. Clark*, 196 Ariz. 530, 2 P.3d 89 (App. 1999). Counsel asks this court to search the record for fundamental error, and Muhammad has filed a supplemental brief. After reviewing the entire record, we affirm Muhammad's convictions and sentences.

#### FACTS AND PROCEDURAL HISTORY

¶2 The owner of Muhammad's apartment complex hired a contractor to install smoke detectors in each of the apartments.<sup>1</sup> An employee of the company installing the alarms encountered an "issue" while entering Muhammad's apartment to install the smoke alarm, so a leasing agent from the apartment complex accompanied him back to Muhammad's apartment. The leasing agent, who knew Muhammad, knocked on the door and identified herself. Muhammad came to the door carrying a sword. She swiped the sword at the

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<sup>1</sup> Upon review, we view the facts in the light most favorable to sustaining the verdicts and resolve all inferences against Muhammad. *State v. Fontes*, 195 Ariz. 229, 230, ¶ 2, 986 P.2d 897, 898 (App. 1998).

necks of the leasing agent and the alarm company employee, causing them to jump back. They left and called police.

¶13 The charges against Muhammad were tried to the court, which found her guilty, suspended sentences and imposed a one-year term of probation. Muhammad timely appealed. 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), 13-4031 and -4033 (2011).

### DISCUSSION

#### A. Fundamental Error Review.

¶14 The record reflects Muhammad received a fair trial. She was represented by counsel at all stages of the proceedings against her and was present at all critical stages. The court held appropriate pretrial hearings. The court granted a motion by Muhammad for a competency examination pursuant to Arizona Rule of Criminal Procedure 11. After an evaluation by a psychiatrist and a psychologist, the court ruled that Muhammad was competent. The court did not conduct a voluntariness hearing; however, the record did not suggest a question about the voluntariness of Muhammad's statements to police. See *State v. Smith*, 114 Ariz. 415, 419, 561 P.2d 739, 743 (1977); *State v. Finn*, 111 Ariz. 271, 275, 528 P.2d 615, 619 (1974).

¶15 The State presented evidence sufficient to allow the superior court to convict. The court received and considered a

criminal history report, addressed its contents during the sentencing hearing and imposed a legal term of probation for the crimes of which Muhammad was convicted.

**B. Issues Raised by Muhammad.**

¶16 In her supplemental brief, Muhammad first argues that police officers and the victims gave false testimony. The court, however, heard each witness's testimony and also heard and considered Muhammad's account of the events. As the finder of fact, the court was in the best position to evaluate the credibility of the witnesses. *State v. Williams*, 209 Ariz. 228, 231, ¶ 6, 99 P.3d 43, 46 (App. 2004). On appeal, we do not reweigh the evidence. *Id.*

¶17 Muhammad next argues that while she was in custody after her arrest, she was not allowed contact with her attorney or to make a telephone call. Because she does not elaborate on these assertions or explain why and how she was prejudiced by the alleged wrongs, we cannot conclude reversible error occurred.

¶18 Muhammad next argues she was denied the right to a speedy trial. Although Muhammad was arrested on the date of the offense, she was released from custody 12 days later. Under Arizona Rule of Criminal Procedure 8.2(a)(2), a defendant who is released from custody must be tried within 180 days of arraignment. Time will be excluded, however, for "[d]elays

occasioned by or on behalf of the defendant, including, but not limited to, delays caused by an examination and hearing to determine competency." Ariz. R. Crim. P. 8.4(a). Due to the Rule 11 proceeding conducted in Muhammad's case, 69 days were excluded, and Muhammad later waived an additional 60 days, making the "last day" for trial January 11, 2011. Because Muhammad was tried on November 17, 2010, her trial took place within the time period prescribed by the rule.

¶9 Muhammad next argues she was mistreated during her arrest and while she was in jail. Because Muhammad's claims regarding mistreatment have no bearing on her conviction or sentence, we do not address them here.

¶10 Muhammad also argues that she wrongfully was denied a jury trial. Though Muhammad originally was charged with two counts of disorderly conduct as Class 6 dangerous felonies, the court granted a motion by the State to dismiss the allegation of dangerousness and designate both counts as Class 1 misdemeanors. In *State ex rel. Baumert v. Superior Court In & For Maricopa County*, 127 Ariz. 152, 155, 618 P.2d 1078, 1081 (1980), the Arizona Supreme Court held a defendant is not entitled to a jury trial on a charge of misdemeanor disorderly conduct. See also *Derendal v. Griffith*, 209 Ariz. 416, 425, ¶¶ 36-37, 104 P.3d 147, 156 (2005) (describing two-step analysis to determine whether defendant is entitled to jury trial). Thus, after the

court designated the disorderly conduct charges as Class 1 misdemeanors, Muhammad was no longer entitled to a jury trial.

¶11 Muhammad finally argues that she was improperly prohibited from acting as her own attorney. Though "[t]he right to represent oneself is a constitutional right," *State v. Rickman*, 148 Ariz. 499, 503, 715 P.2d 752, 756 (1986), Muhammad did not ask the superior court to permit her to represent herself; rather, she asked that the court allow her to be "co-counsel" in her case. A defendant has no state or federal constitutional right to such "hybrid representation." *Id.* at 504, 715 P.2d at 757; *see also State v. Stone*, 122 Ariz. 304, 307, 594 P.2d 558, 561 (App. 1979). Under the circumstances, the superior court did not abuse its discretion in declining Muhammad's request. *See State v. Dixon*, 226 Ariz. 545, 553, ¶ 38, 250 P.3d 1174, 1182 (2011) ("We review the decision to deny hybrid representation for abuse of discretion.").

#### CONCLUSION

¶12 We have reviewed the entire record for reversible error and find none. *See Leon*, 104 Ariz. at 300, 451 P.2d at 881.

¶13 After the filing of this decision, defense counsel's obligations pertaining to Muhammad's representation in this appeal have ended. Defense counsel need do no more than inform Muhammad of the outcome of this appeal and her future options, unless, upon review, counsel finds "an issue appropriate for s

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). On the court's own motion, Muhammad has 30 days from the date of this decision to proceed, if she wishes, with a *pro per* motion for reconsideration. Muhammad has 30 days from the date of this decision to proceed, if she wishes, with a *pro per* petition for review.

/s/  
DIANE M. JOHNSEN, Presiding Judge

CONCURRING:

/s/  
PATRICIA A. OROZCO, Judge

/s/  
LAWRENCE F. WINTHROP, Judge