

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



DIVISION ONE
FILED: 12/13/2011
RUTH A. WILLINGHAM,
CLERK
BY: DLL

STATE OF ARIZONA,) 1 CA-CR 11-0086
)
Appellee,) DEPARTMENT C
)
v.) **MEMORANDUM DECISION**
) (Not for Publication - Rule
JOEL QUINONEZ MERAZ,) 111, Rules of the Arizona
) Supreme Court)
Appellant.)
)

Appeal from the Superior Court in Maricopa County

Cause No. CR 2009-167027-001 SE

The Honorable Carolyn K. Passamonte, Commissioner

AFFIRMED AS CORRECTED

Thomas C. 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

N O R R I S, Judge

¶1 Joel Quinonez Meraz timely appeals from his convictions and sentences for driving under the influence of alcohol while his driver's license was suspended. After

searching the record on appeal and finding no arguable question of law that was not frivolous, Meraz's counsel filed a brief in accordance with *Anders v. California*, 386 U.S. 738, 87 S. Ct. 1396, 18 L. Ed. 2d 493 (1967), and *State v. Leon*, 104 Ariz. 297, 451 P.2d 878 (1969), asking this court to search the record for fundamental error. This court granted counsel's motion to allow Meraz to file a supplemental brief *in propria persona*, but Meraz did not to do so. After reviewing the entire record, we find no fundamental error and, therefore, affirm Meraz's convictions and sentences.

FACTS AND PROCEDURAL BACKGROUND¹

¶2 On June 7, 2009, a highway patrolman noticed Meraz driving a maroon pickup truck slowly in the far-right lane of a Mesa freeway. As he watched, the truck moved right onto the entrance of an exit ramp, but then swerved back onto the freeway, straddling the "fog line" on the far right of the road for roughly one hundred feet. After pulling the truck over and approaching Meraz and his passenger, the patrolman "immediately smell[ed] alcohol coming from the vehicle" and saw two open beer cans in the cab.

¹We view the facts in the light most favorable to sustaining the jury's verdict and resolve all reasonable inferences against Meraz. *State v. Guerra*, 161 Ariz. 289, 293, 778 P.2d 1185, 1189 (1989).

¶13 The patrolman asked Meraz to perform several field sobriety tests, and the patrolman testified at trial that several of Meraz's responses to the tests suggested he was intoxicated. The patrolman also discovered Meraz's driver's license had been suspended. The patrolman arrested Meraz, and took him to a nearby sheriff's office where another officer withdrew a sample of Meraz's blood, pursuant to Arizona's implied consent law. See Ariz. Rev. Stat. ("A.R.S.") § 28-1321 (2009). A criminalist later determined that Meraz's blood alcohol concentration at the time it was withdrawn was .184, well above the legal limit of .08. See A.R.S. § 28-1381(A)(2) (2008).

¶14 A grand jury indicted Meraz on two counts of aggravated driving or actual physical control while under the influence of intoxicating liquor or drugs, a class 4 felony. See A.R.S. §§ 28-1381(A)(1)-(2), -1383(A)(1) (2008). After a trial, the jury found Meraz guilty of both counts. The superior court sentenced Meraz to four months in prison and three years of probation following his release from prison, with 34 days of presentence incarceration credit.

DISCUSSION

¶15 We have reviewed the entire record for reversible error and find none. See *Leon*, 104 Ariz. at 300, 451 P.2d at 881. Meraz received a fair trial. He was represented by

counsel at all stages of the proceedings and was present at all critical stages.

¶16 The evidence presented at trial was substantial and supports the verdicts. The jury was properly comprised of eight members and the court properly instructed the jury on the elements of the charges, Meraz's presumption of innocence, the State's burden of proof, and the necessity of a unanimous verdict. The superior court received and considered a presentence report, Meraz was given an opportunity to speak at sentencing, and his sentences were within the range of acceptable sentences for his offenses. A.R.S. § 28-1383(L)(1), A.R.S. § 13-702(D) (2009).

¶17 We note, however, the superior court's sentencing minute entry filed on January 19, 2011, mistakenly states Meraz waived trial and entered a plea of guilty. We hereby correct the sentencing minute entry to reflect Meraz pled not guilty, but was found guilty by the jury after a trial.

CONCLUSION

¶18 We decline to order briefing and affirm Meraz's convictions and sentences as corrected.

¶19 After the filing of this decision, defense counsel's obligations pertaining to Meraz's representation in this appeal have ended. Defense counsel need do no more than inform Meraz of the outcome of this appeal and his future options, unless,

upon review, counsel finds 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).

¶10 Meraz has 30 days from the date of this decision to proceed, if he wishes, with an *in propria persona* petition for review. On the court's own motion, we also grant Meraz 30 days from the date of this decision to file an *in propria persona* motion for reconsideration.

_____/s/_____
PATRICIA K. NORRIS, Judge

CONCURRING:

_____/s/_____
MICHAEL J. BROWN, Presiding Judge

_____/s/_____
PHILIP HALL, Judge