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See Ariz. R. Supreme Court 111(c); ARCAP 28(c);
Ariz. R. Crim. P. 31.24



DIVISION ONE
FILED: 12/20/2011
RUTH A. WILLINGHAM,
CLERK
BY: DLL

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

STATE OF ARIZONA,) No. 1 CA-CR 11-0231
)
Appellee,) DEPARTMENT C
)
v.) **MEMORANDUM DECISION**
) (Not for Publication -
JESSE RAYMOND TAPIA,) Rule 111, Rules of the
) Arizona Supreme Court)
Appellant.)
)
_____)

Appeal from the Superior Court in Maricopa County

Cause No. CR2010-138837-002DT

The Honorable Michael W. Kemp, Judge

AFFIRMED

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

Law Office of Nicole Farnum Phoenix
By Nicole T. Farnum
Attorney for Appellant

B R O W N, Judge

¶1 Jesse Raymond Tapia appeals his convictions and sentences for armed robbery, aggravated assault, and misconduct involving weapons. Counsel for Tapia 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, she was unable to find any arguable grounds for reversal. Tapia was granted the opportunity to file a supplemental brief *in propria persona*, but he has not done so.

¶12 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 Tapia. *State v. Guerra*, 161 Ariz. 289, 293, 778 P.2d 1185, 1189 (1989). Finding no reversible error, we affirm.

¶13 In August 2010, Tapia was indicted on two counts of armed robbery, class 2 dangerous felonies, pursuant to Arizona Revised Statutes ("A.R.S.") section 13-1904 (2010);¹ two counts of aggravated assault, class 3 dangerous felonies, pursuant to A.R.S. § 13-1204 (Supp. 2011); and one count of misconduct involving weapons, a class 4 felony, pursuant to A.R.S. § 13-3102 (Supp. 2011). The following evidence was presented at trial.

¹ Absent material revision after the date of the alleged offense, we cite the statute's current version.

¶14 On July 23, 2010, Tapia approached two people outside a Circle K who were attempting to jump-start a vehicle. The victims testified that Tapia pointed a gun at them and took their property, including necklaces, a phone, a wallet, and money. Detective Meyers, who had been assigned surveillance duties for the Circle K, witnessed Tapia arrive at the Circle K in a white SUV. He later saw Tapia standing next to the victims' vehicles and one of the victims holding his hands over his head. Detective Meyers also observed Tapia moving between the victims' cars, yelling to the driver of the SUV to "go, go, go," and then saw Tapia fleeing across the street to meet the SUV. Detective MacDonald, who was driving by the Circle K in response to a different police call, also saw one of the victims with his hands in the air and witnessed Tapia put a large metallic object in his pocket and run across the street near the waiting SUV.

¶15 Police stopped the SUV near the end of the parking lot across the street. Tapia was arrested, and the SUV was impounded. A search warrant was later executed on the SUV. The officers found the victims' property stashed under the driver's seat and a gun under the front passenger seat. The ammunition in the gun was the same type as the round of "live ammunition" found next to one of the victims' vehicles. Both victims identified Tapia as the man who robbed them.

¶16 A jury found Tapia guilty as charged. Following a trial on the State's allegation of prior convictions, the court found that the State proved Tapia had previously been convicted of "at least two" of the felonies. The court then sentenced Tapia to slightly aggravated terms of seventeen years for armed robbery, fourteen years for aggravated assault, and eleven years for misconduct involving weapons, with the sentences to run concurrently. Tapia was granted 244 days of presentence incarceration credit. This timely appeal followed.

¶17 We have reviewed 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 Tapia was present and represented by counsel at all pertinent stages of the proceedings, he was afforded the opportunity to speak before sentencing, and the sentence imposed was within statutory limits. Accordingly, we affirm Tapia's convictions and sentences.

¶18 Upon the filing of this decision, counsel shall inform Tapia 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). Tapia 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/

MICHAEL J. BROWN, Presiding Judge

CONCURRING:

/s/

PATRICIA K. NORRIS, Judge

/s/

PHILIP HALL, Judge