

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Appellee,

v.

CARLOS OCTAVIO DOMINGUEZ,
Appellant.

No. 2 CA-CR 2016-0329
Filed April 13, 2017

THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.

NOT FOR PUBLICATION

See Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Crim. P. 31.24.

Appeal from the Superior Court in Pima County
No. CR20153640001
The Honorable Sean E. Brearcliffe, Judge

AFFIRMED AS CORRECTED

COUNSEL

Kevin M. Burke, Interim Pima County Public Defender
By Michael J. Miller, Assistant Public Defender, Tucson
Counsel for Appellant

MEMORANDUM DECISION

Presiding Judge Howard authored the decision of the Court, in which Chief Judge Eckerstrom and Judge Vásquez concurred.

H O W A R D, Presiding Judge:

¶1 After a jury trial, Carlos Dominguez was convicted of three counts of first-degree trafficking in stolen property. The trial court sentenced him to a three-year prison term for one count, to be followed by one-year, concurrent terms of probation for the remaining two counts.

¶2 Counsel has filed a brief in compliance with *Anders v. California*, 386 U.S. 738 (1967), and *State v. Clark*, 196 Ariz. 530, 2 P.3d 89 (App. 1999), asserting he has reviewed the record but found no arguably meritorious issue to raise on appeal. Consistent with *Clark*, 196 Ariz. 530, ¶ 32, 2 P.3d at 97, he has provided “a detailed factual and procedural history of the case with citations to the record” and asks this court to search the record for fundamental error. Dominguez has not filed a supplemental brief.

¶3 Viewing the evidence in the light most favorable to sustaining the jury’s verdicts, see *State v. Tamplin*, 195 Ariz. 246, ¶ 2, 986 P.2d 914, 914 (App. 1999), sufficient evidence supports them here. In 2015, Dominguez pawned, on different days, two digital video disc players and a television that he had taken from his niece without her permission. A.R.S. § 13-2307(B). Dominguez’s sentence is within the statutory range and was properly imposed. A.R.S. §§ 13-703(A), (H), 13-2307(C). The terms of probation are authorized by statute and were imposed in a lawful manner. A.R.S. §§ 13-901(A), (B), 13-902(A)(1).

STATE v. DOMINGUEZ

Decision of the Court

¶4 We note, however, that there is a discrepancy between the trial court's oral pronouncement of Dominguez's probation terms and the sentencing minute entry – the court orally announced that the terms would be for one year, but the minute entry describes three-year terms. We correct the minute entry to reflect the court's oral pronouncement. *See State v. Hanson*, 138 Ariz. 296, 304-05, 674 P.2d 850, 858-59 (App. 1983) (“Where there is a discrepancy between the oral sentence and the written judgment, the oral pronouncement of sentence controls.”); *see also State v. Vandever*, 211 Ariz. 206, ¶ 16, 119 P.3d 473, 477 (App. 2005) (appellate court authorized to correct inadvertent error in sentencing minute entry); *State v. Lopez*, 230 Ariz. 15, n.2, 279 P.3d 640, 643 n.2 (App. 2012) (“When we can ascertain the trial court's intent from the record, we need not remand for clarification.”).

¶5 Pursuant to our obligation under *Anders*, we have searched the record for fundamental error and found none. *See State v. Fuller*, 143 Ariz. 571, 575, 694 P.2d 1185, 1189 (1985). Accordingly, we affirm Dominguez's convictions and the sentence and, as corrected, the terms of probation imposed.