IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Appellee,

v.

FRANCISCO RAUL SANCHEZ-GAMEZ,
Appellant.

No. 2 CA-CR 2017-0099
Filed October 30, 2017

Appeal from the Superior Court in Pima County
No. CR20151787001
The Honorable Howard Fell, Judge Pro Tempore

AFFIRMED

COUNSEL

Joel Feinman, Pima County Public Defender
By David J. Euchner, Assistant Public Defender, Tucson
Counsel for Appellant

MEMORANDUM DECISION

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

V Á S Q U E Z, Presiding Judge:

¶1 After a jury trial, Francisco Sanchez-Gamez was convicted of manslaughter, criminal damage causing at least $2,000 but less than $10,000 in damage, and two counts of aggravated driving under the influence while his license was suspended, revoked, or restricted (one count for driving while impaired to the slightest degree and the other for having an alcohol concentration of .08 or greater within two hours of driving). The trial court sentenced him to concurrent prison terms, the longest of which is 10.5 years.

¶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 asked this court to search the record for error. Sanchez-Gamez has filed a supplemental brief asserting the trial court erred in denying his motion for a judgment of acquittal and by precluding evidence as irrelevant.

¶3 Viewed 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), the evidence is sufficient to support the verdicts here. *See* A.R.S. §§ 13-1103(A)(1), 13-1602(A)(1), 28-1381(A)(1), (2), 28-1383(A)(1). In April 2015, Sanchez-Gamez, whose driver's license was suspended at the time, drove his vehicle off the road, causing it to flip onto its right side and crash into a fence, causing over $5,000 in damage to the fence. His passenger was killed in the accident. Sanchez-Gamez admitted drinking alcohol, and a blood test showed his alcohol concentration to be .177 within two hours of driving. His

sentence is within the statutory range and was lawfully imposed. *See* A.R.S. §§ 13-702(D), 13-704(A), 13-1103(C), 13-1602(B)(3), 28-1383(M)(1).

¶4 In his supplemental brief, Sanchez-Gamez first contends the trial court erred by denying his motion for a judgment of acquittal made pursuant to Rule 20, Ariz. R. Crim. P. We review de novo a trial court's denial of a Rule 20 motion. *State v. West*, 226 Ariz. 559, ¶ 15, 250 P.3d 1188, 1191 (2011). "[T]he relevant question is whether, after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *Id.* ¶ 16, *quoting State v. Mathers*, 165 Ariz. 64, 66, 796 P.2d 866, 868 (1990). Sanchez-Gamez seems to argue the evidence was insufficient to support his conviction for manslaughter because he testified the passenger had caused the accident by interfering with his driving. But the jury was free to reject that testimony, *see State v. Lowery*, 230 Ariz. 536, ¶ 6, 287 P.3d 830, 833 (App. 2012), and, as we noted above, the evidence presented at trial was sufficient to support his manslaughter conviction.

¶5 Sanchez-Gamez also suggests the trial court erred by precluding, on relevance grounds, the testimony of his brother about his passenger's behavior more than five hours before the crash,[1] and evidence that Sanchez-Gamez had received a letter from the City of Tucson after the accident notifying him of a delinquent account, apparently in association with a traffic citation. But Sanchez has identified no reason this evidence would have aided the jury in resolving the issues in this case. *See* Ariz. R. Evid. 401 (evidence relevant only if "it has any tendency to make a fact more or less

[1]Even were the testimony relevant, trial counsel did not make an offer of proof, stating only that Sanchez-Gamez's brother would testify the victim had been "disruptive" earlier in the day. *See State v. Towery*, 186 Ariz. 168, 179, 920 P.2d 290, 301 (1996) (to preserve objection to exclusion of evidence requires, "[a]t a minimum, an offer of proof stating with reasonable specificity what the evidence would have shown").

probable" and "the fact is of consequence in determining the action"). We find no basis to conclude the court abused its discretion by determining the evidence was irrelevant. *See State v. Newell*, 212 Ariz. 389, ¶ 73, 132 P.3d 833, 848 (2006) ("We review a trial court's ruling on the admissibility of evidence for abuse of discretion.").

¶6 Pursuant to our obligation under *Anders*, we have searched the record for fundamental, reversible error and found none. Accordingly, we affirm Sanchez-Gamez's convictions and sentences.