

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Appellee,

v.

ROBERT CHARLES VILLALOBOS III,
Appellant.

No. 2 CA-CR 2017-0378
Filed January 23, 2020

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NOT FOR PUBLICATION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. 31.19(e).

Appeal from the Superior Court in Pinal County
No. S1100CR201602438
The Honorable Kevin D. White, Judge

AFFIRMED AS CORRECTED

COUNSEL

Service Law Group, Mesa
By Ian N. Service
Counsel for Appellant

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MEMORANDUM DECISION

Judge Brearcliffe authored the decision of the Court, in which Presiding Judge Staring and Chief Judge Vásquez concurred.

BREARCLIFFE, Judge:

¶1 Following a jury trial, appellant Robert Villalobos III was convicted of conspiracy to commit first-degree murder, two counts of dangerous or deadly assault by a prisoner, aggravated assault on a correctional officer, and promoting prison contraband. The trial court sentenced him to a life term of imprisonment without the possibility of release before twenty-five years, to be followed by consecutive terms of imprisonment totaling 106 years.¹ Following a restitution hearing, the court ordered Villalobos to pay \$375,476.35 and \$1,212.37 in restitution jointly and severally with his two codefendants.²

¶2 Counsel has filed a brief in compliance with *Anders v. California*, 386 U.S. 738 (1967), and *State v. Clark*, 196 Ariz. 530 (App. 1999), stating he has reviewed the record and found no “arguable issues on appeal,” and asking us to search the record for fundamental or reversible error. Consistent with *Clark*, 196 Ariz. 530, ¶ 32, he has provided “a detailed factual and procedural history of the case with citations to the record.”³ Villalobos has not filed a supplemental brief. We affirm as corrected.

¹The state alleged multiple aggravating circumstances, including Villalobos’s prior felony convictions. Villalobos admitted having five prior felony convictions and stipulated to four aggravating factors. Those factors included infliction or threatened infliction of serious physical injury; use, threatened use, or possession of a deadly weapon or dangerous instrument during the commission of the crime; the presence of an accomplice; and the physical, emotional and financial harm caused to the victims in this case.

²Villalobos’s separate notice of appeal from the April 2018 restitution award is part of the record on appeal.

³After counsel filed an opening brief that did not comply with *Clark*, we struck that pleading and ordered him to file a compliant brief. After he did so, we ordered the record be supplemented with the exhibits from the

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¶3 Viewed in the light most favorable to sustaining the verdicts, *see State v. Delgado*, 232 Ariz. 182, ¶ 2 (App. 2013), the evidence is sufficient to support the jury's findings of guilt. *See* A.R.S. §§ 13-301, 13-302, 13-303, 13-1003, 13-1101, 13-1105(A)(1), 13-1203(A), 13-1204(A)(10), 13-1206, 13-2501, 13-2505(A)(3).⁴ The evidence presented at trial showed that in September 2016, the victims (C.W. and S.A.), corrections officers at the Pinal County Adult Detention Center, were conducting daily "rounds" at the jail when an inmate yelled out, "'The Lieutenant [S.A.] is in the pod,'" after which another inmate, Mauricio Moraga, began to follow C.W. Santiago Sanchez, a third inmate, then began punching S.A. while Villalobos, also an inmate at the jail, repeatedly stabbed S.A. in the back with a "shank,"⁵ causing him serious injuries. When C.W. attempted to help S.A., Moraga blocked his path and assumed a fighting stance; C.W. then punched Moraga, who continued to block C.W.'s path until C.W. struck him with a baton. When C.W. reached S.A., Villalobos "looked at" C.W. while holding a shank in his hand. We further conclude the sentences are within the statutory range for a category three repetitive offender and were lawfully imposed. *See* A.R.S. §§ 13-701(D), 13-703(C), (G), (J), 13-1003(D), 13-1105(D).

¶4 In our review of the record pursuant to *Anders* we noted that, although the trial court found that the two counts of dangerous or deadly assault by a prisoner were dangerous offenses, the written judgment characterizes the offenses as "nondangerous." We thus correct the sentencing order to reflect that counts two and three are dangerous offenses, as indicated in the indictment and sentencing transcript. *See State v. Ovante*, 231 Ariz. 180, ¶ 38 (2013) (discrepancy between oral pronouncement of sentence and written minute entry generally controlled by oral pronouncement and reviewing court will correct minute entry if record clearly identifies intended sentence).

restitution hearing, which were not initially included in the record before us.

⁴We cite the current version of the statutes in this decision, as they have not changed in relevant part since Villalobos committed his offenses.

⁵An officer testified that a "shank" is a "piece of metal that you can find or be able to get your hands on and sharpen it to use as a knife." After the incident, officers discovered that pieces of metal had been removed from Moraga's and Sanchez's bunks.

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¶5 Pursuant to our obligation under *Anders*, we have searched the record for fundamental, reversible error and have found none. Accordingly, we affirm Villalobos's convictions and sentences but correct the sentencing order to reflect that counts two and three are dangerous rather than nondangerous offenses.