

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

FILED BY CLERK

JUN 17 2010

COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

THE STATE OF ARIZONA,)	2 CA-CR 2008-0289
)	DEPARTMENT B
Appellee,)	
)	<u>MEMORANDUM DECISION</u>
v.)	Not for Publication
)	Rule 111, Rules of
VICENTE MURRIETA MELENDEZ,)	the Supreme Court
)	
Appellant.)	
_____)	

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR20042912

Honorable Howard Fell, Judge
Honorable Howard Hantman, Judge

AFFIRMED

John William Lovell, P.C.
By John William Lovell

Tucson
Attorney for Appellant

V Á S Q U E Z, Judge.

¶1 In a forty-two count indictment, the state charged appellant Vicente Melendez and thirty-nine others with various offenses allegedly arising from their involvement in a major narcotics trafficking operation known as the Dominguez Organization. Melendez was charged with illegally conducting an enterprise, a class

three felony occurring on May 1, 2004 through August 31, 2004; conspiracy to commit unlawful possession and/or transportation of marijuana for sale, a class two felony, occurring on May 1, 2004 through August 31, 2004; and two counts of possession of marijuana for sale, class two felonies, occurring on June 26 through June 28, 2004 and June 29 through July 3, 2004, respectively. Following a twenty-four-day trial with three of his co-defendants, the jury found Melendez guilty of all but the second count of unlawful possession of marijuana for sale. It found both the conspiracy and possession counts had involved more than four pounds of marijuana. The trial court found Melendez had one historical prior felony conviction; it sentenced Melendez to concurrent, enhanced, presumptive terms of imprisonment, the longest of which were 9.25 years.

¶2 Appellate counsel has filed a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967), and *State v. Clark*, 196 Ariz. 530, 2 P.3d 89 (App. 1999), “setting forth a detailed factual and procedural history of the case with citations to the record, [so that] this court can satisfy itself that counsel has in fact thoroughly reviewed the record.” *Clark*, 196 Ariz. 530, ¶ 32, 2 P.3d at 97. Counsel states, and his brief reflects, that he has thoroughly reviewed the record in this case. He further states he has been unable to find any issues he can, in good faith, assert on appeal, and he asks us to search the record for fundamental error. Melendez was given the opportunity to file a supplemental brief in propria persona and has failed to do so.

¶3 Viewed in the light most favorable to sustaining the jury’s verdicts, *State v. Tamplin*, 195 Ariz. 246, ¶ 2, 986 P.2d 914, 914 (App. 1999), the evidence established that Melendez had participated as a “driver” in the marijuana trafficking activities of the

Dominguez Organization. It further established that, on June 27, 2004, Melendez drove a vehicle with a cargo of over one hundred pounds of marijuana destined for Los Angeles, before abandoning the vehicle and marijuana in or near Phoenix, because he believed he was being followed by police.

¶4 Pursuant to our obligation under *Anders*, we have reviewed the trial court record and have searched it for error. We have found substantial evidence to support the jury's verdicts and have found no error warranting reversal. Melendez's convictions and sentences therefore are affirmed.

/s/ Garye L. Vásquez
GARYE L. VÁSQUEZ, Judge

CONCURRING:

/s/ Peter J. Eckerstrom
PETER J. ECKERSTROM, Presiding Judge

/s/ J. William Brammer, Jr.
J. WILLIAM BRAMMER, JR., Judge