

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Appellee,

v.

GABRIEL ROSS JARAMILLO,
Appellant.

No. 2 CA-CR 2013-0224
Filed January 14, 2014

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NOT FOR PUBLICATION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); Ariz. R. Crim. P. 31.24.

Appeal from the Superior Court in Gila County

No. CR201200399

The Honorable Robert Duber II, Judge

AFFIRMED

COUNSEL

Emily Danies, Tucson
Counsel for Appellant

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MEMORANDUM DECISION

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

M I L L E R, Judge:

¶1 After a jury trial, appellant Gabriel Jaramillo was convicted of two counts alleged in a nine-count indictment: simple assault and unlawful flight from law enforcement. The trial court sentenced Jaramillo to a jail term of four months and the presumptive, five-year prison term, respectively. Appointed counsel has filed a brief on appeal in accordance with *Anders v. California*, 386 U.S. 738 (1967) and *State v. Clark*, 196 Ariz. 530, 2 P.3d 89 (App. 1999), avowing she has found no “arguable question of law” and asking this court to search the record for fundamental error. Jaramillo has not filed a supplemental brief.

¶2 We view the facts in the light most favorable to upholding the jury’s verdicts. *State v. Pena*, 233 Ariz. 112, ¶ 4, 309 P.3d 936, 938 (App. 2013). The night of August 25, 2012, Jaramillo led law enforcement officers on what was at times a high-speed chase that began in one county and ended in Gila County, where Jaramillo got out of the stolen pickup truck he had been driving and fled on foot. Jaramillo was charged with nine felonies in connection with this incident: three counts of attempted first-degree murder of a law enforcement officer acting in the line of duty, three counts of aggravated assault of a peace officer engaged in the execution of official duties while using a deadly weapon or dangerous instrument, theft of a means of transportation, weapons misconduct based on being a prohibited possessor and possessing a firearm, and unlawful flight from a law enforcement officer.

¶3 On the first day of trial, Jaramillo stipulated, both orally, through counsel, and by written stipulation, that he was a convicted felon whose right to possess a firearm had not been

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restored as of the date of the offenses, thereby conceding he was a prohibited possessor.¹ Counsel also conceded Jaramillo was running from law enforcement officers that day, telling the jury, on that count “you’re going to find him guilty and we understand that and we concede that.” Additionally, viewed in the light most favorable to upholding his convictions, the evidence established that Jaramillo fled from law enforcement officers in a stolen vehicle, at one point speeding directly at an officer in his patrol car, placing that officer in fear of his life. *See* A.R.S. §§ 13-2302(A)(2); 28-622.01.

¶4 We have reviewed the record for fundamental error but have found none with respect to the convictions or the sentences imposed. We therefore affirm both.

¹When defense counsel argued Jaramillo was entitled to a judgment of acquittal at the close of evidence, she denied having previously stipulated that Jaramillo was a prohibited possessor, insisting “we stipulated that Mr. Jaramillo is a convicted felon” only. But the transcript from the first day of trial and the written, signed stipulation belie that contention, given that Jaramillo conceded all material portions of the definition of a prohibited possessor: a person “[w]ho has been convicted . . . of a felony . . . and whose civil right to possess or carry a gun or firearm has not been restored.” A.R.S. § 13-3101(A)(7). What Jaramillo did not admit was that he had possessed a gun or firearm as alleged in count eight of the indictment. Any discrepancy, however, is of no moment, given that the jury acquitted Jaramillo of this charge, presumably finding the state did not prove he had possessed a firearm that night.