DIVISION ONE
FILED: 10/1/2013
RUTH A. WILLINGHAM, CLERK
BY: mjt

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

STATE OF ARIZONA,	)	No. 1 CA-CR 13-0124
	)	
Appellee,	)	DEPARTMENT D
	)	
v.	)	**MEMORANDUM DECISION**
	)	(Not for Publication -
MICHELLE DOREEN DENTON,	)	Rule 111, Rules of the
	)	Arizona Supreme Court)
Appellant.	)	

Appeal from the Superior Court in Maricopa County

Cause No. CR2012-105437-001

The Honorable Carolyn K. Passamonte, Commissioner

AFFIRMED

William G. Montgomery, County Attorney — Phoenix
By Joseph T. Maziarz, Chief Counsel
Criminal Appeals/Capital Litigation Section
Attorneys for Appellee

James J. Haas, Maricopa Public Defender — Phoenix
By Paul J. Prato, Deputy Public Defender
Attorneys for Appellant

O R O Z C O, Judge

¶1 Michelle Dorene Denton (Appellant) appeals her

convictions for custodial interference and a domestic violence offense in violation of Arizona Revised Statutes (A.R.S.) Sections 13-1302, 13-3601, 13-701, 13-702, and 13-801. Defendant's counsel filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967) and *State v. Leon*, 104 Ariz. 297, 451 P.2d 878 (1969), advising this court that after a search of the entire appellate record, he found no arguable question of law that was not frivolous. Defendant was afforded the opportunity to file a supplemental brief in propria persona, but has not done so.

¶2 Our obligation in this appeal is to review "the entire record for reversible error." *State v. Clark*, 196 Ariz. 530, 537, ¶ 30, 2 P.3d 89, 96 (App. 1999). Finding no reversible error, we affirm.

FACTS AND PROCEDURAL HISTORY

¶3 Appellant and James S. (Father) have joint custody of their minor child (Child). Pursuant to a court order (Custody Order):

> [D]uring the minor child's Summer Break from school, each parent shall have one (1) week of uninterrupted parenting time. Each party shall notify the other in writing by April 15th in that year of the week they intend to exercise this one week vacation. If one parent does not provide their preference in writing, the parent that does, shall exercise the parenting time week that they choose. If both parents provide notice to the other of the week they choose, and there is a conflict, Father shall have first choice in odd-

> numbered years and Mother shall first choice in even-numbered years.

Moreover, parenting time with Child on the Fourth of July holiday would alternate with Father having access to Child on odd years and Appellant on even years.

¶4 In accordance with the Custody Order, Appellant initially chose the week of July 23, 2011 to exercise her week of uninterrupted parenting time. Notwithstanding this request, Appellant subsequently sought to change the date for the week that included the Fourth of July via text message on June 6, 2011. Appellant also sent Father e-mails confirming the change and, at her trial, testified Father never responded to her text messages or her e-mails. Conversely, Father testified that he did respond to her requests and advised Appellant that July 4, 2011 was his day with Child according to the Custody Order. Father further asserted he intended to keep Child that day.

¶5 On July 4, 2011 Father went to both Appellant's home and Appellant's mother's home to pick up Child. Father contacted police after he was unable to locate Child at either residence. Although the officer responding to Father's call was unable to make physical contact with Appellant, he was was able to reach her via telephone. The officer testified he advised Appellant to return Child to Father and that she could be charged with custodial interference if she failed to do so.

¶6 At trial, Appellant testified she believed she had the right to have custody of Child on July 4, 2011 because Father never responded to her text message or e-mails. Also Father had not advised her he wanted Child on the Fourth of July.

¶7 After a bench trial, the court found Appellant was guilty of custodial interference, a domestic violence offense. Moreover, the trial court found Father's testimony that he confirmed he wanted daughter on July 4, 2011 to be credible. Based on its finding of guilt, the trial court sentenced Appellant to twelve months probation.

DISCUSSION

¶8 When reviewing the sufficiency of the evidence, we view the evidence "in the light most favorable to sustaining the conviction . . . ." *State v. Tison*, 129 Ariz. 546, 552, 633 P.2d 355, 361 (1981). We do not reweigh the evidence and will affirm if substantial evidence supports the trial court's verdict. *Id*. "'Substantial evidence' is evidence that reasonable persons could accept as adequate and sufficient to support a conclusion of defendant's guilt beyond a reasonable doubt." *State v. Jones*, 125 Ariz. 417, 419, 610 P.2d 51, 53 (1980).

¶9 A person with joint custody of a child commits custodial interference when that person knowingly, or having reason to know she has no legal right to do so, "entices or

withholds from physical custody the child" from the other parent. A.R.S. § 13-1302 (Supp. 2012).

¶10 Here, Appellant was aware of the details regarding the Custody Order. Thus, she knew Father was entitled to parenting time with Child on July 4, 2011. Moreover, Appellant did not return Child even after being contacted by a law enforcement officer.

¶11 Additionally, pursuant to A.R.S. § 13-3601(A)(2) (2012), a violation of § 13-1302 may be classified as a domestic violence offense if the defendant and the victim have a child in common. Here, the trial court correctly found that Appellant's custodial interference conviction was a domestic violence offense because Appellant and Father have a child in common.

¶12 Thus, substantial evidence was presented to support the trial court's finding that Defendant was guilty of custodial interference.

CONCLUSION

¶13 We have carefully searched the entire appellate record for reversible error and have found none. *See Clark*, 196 Ariz. at 541, ¶ 49, 2 P.3d at 100. All of the proceedings were conducted in compliance with the Arizona Rules of Criminal Procedure. We find substantial evidence supported the trial court's guilty verdict. Appellant was present and represented by counsel at all critical stages of the proceedings. At

sentencing, Appellant and her counsel were given an opportunity to speak, and the court imposed a legal sentence.

¶14 Counsel's obligations pertaining to Appellant's representation in this appeal have ended. *See State v. Shattuck*, 140 Ariz. 582, 584, 684 P.2d 154, 156 (1984). Counsel need do nothing more than inform Defendant of the status of the appeal and her future options, unless counsel's review reveals an issue appropriate for submission to the Arizona Supreme Court by petition for review. *See id.* at 585, 684 P.2d at 157. Defendant shall have thirty days from the date of this decision to proceed, if she so desires, with an in propria persona motion for reconsideration or petition for review.

¶15 For the foregoing reasons, Appellant's conviction is affirmed.

/S/
_____
PATRICIA A. OROZCO, Judge

CONCURRING:

/S/
_____
ANDREW W. GOULD, Presiding Judge

/S/
_____
MARGARET H. DOWNIE, Judge