

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
OCT 19 2012
COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

THE STATE OF ARIZONA,)	2 CA-CR 2012-0039
)	DEPARTMENT B
Appellee,)	
)	<u>MEMORANDUM DECISION</u>
v.)	Not for Publication
)	Rule 111, Rules of
FLOYD BENNETT RIOS,)	the Supreme Court
)	
Appellant.)	
_____)	

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR20110512001

Honorable Clark W. Munger, Judge

AFFIRMED

Isabel G. Garcia, Pima County Legal Defender
By Alex D. Heveri

Tucson
Attorneys for Appellant

K E L L Y, Judge.

¶1 After a jury trial, appellant Floyd Rios was convicted of aggravated driving under the influence (DUI) while his license was suspended or revoked, aggravated driving with an alcohol concentration (AC) of .08 or more while his license was suspended or revoked, aggravated DUI having committed or been convicted of two or more prior DUI violations within eighty-four months, and aggravated driving with an AC of .08 or more having committed or been convicted of two or more prior DUI violations. The trial court imposed a concurrent, enhanced, aggravated, six-year sentence on each count. 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), stating she “has reviewed the entire record and was unable to find any meritorious issue to raise on appeal.” Counsel has asked us to search the record for reversible error. Rios has not filed a supplemental brief.

¶2 Viewed in the light most favorable to sustaining the verdicts, the evidence presented at trial was sufficient to support the jury’s findings of guilt. *See State v. Tamplin*, 195 Ariz. 246, ¶ 2, 986 P.2d 914, 914 (App. 1999). In February 2011, Rios hit a pole while driving with a blood alcohol level, measured in two separate tests at .116 or .120. He failed subsequent field sobriety tests and admitted to police officers that his license was revoked. Evidence further established Rios had committed DUI offenses in February 2002 and January 2004 and had been ordered to serve ninety days as a condition of probation on the first offense and sentenced to three years’ imprisonment on

the second. *See* A.R.S. § 28-1383(A)(2), (B). We further conclude the sentences imposed are appropriate. *See* A.R.S. §§ 13-703(B)(2), (I), 28-1381, 28-1383.

¶3 Pursuant to our obligation under *Anders*, we have searched the record for fundamental, reversible error and have found none. Therefore, Rios's convictions and sentences are affirmed.

/s/ Virginia C. Kelly
VIRGINIA C. KELLY, Judge

CONCURRING:

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

/s/ Philip G. Espinosa
PHILIP G. ESPINOSA, Judge