

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Appellee,

v.

DANIEL EVAN SOTO,
Appellant.

No. 2 CA-CR 2016-0043
Filed June 17, 2016

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NOT FOR PUBLICATION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. 31.24.

Appeal from the Superior Court in Pima County
No. CR20152548001
The Honorable Casey F. McGinley, Judge Pro Tempore

AFFIRMED

COUNSEL

Dean Brault, Pima County Legal Defender
By Scott A. Martin, Assistant Legal Defender, Tucson
Counsel for Appellant

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MEMORANDUM DECISION

Judge Espinosa authored the decision of the Court, in which Presiding Judge Howard and Judge Staring concurred.

ESPINOSA, Judge:

¶1 Following a jury trial, appellant Daniel Soto was convicted of two counts of aggravated driving under the influence (DUI) and two counts of aggravated driving with a blood alcohol concentration of .08 or more, committed while his license was suspended, revoked, or restricted and after having been convicted of committing two or more prior DUI violations during the preceding eighty-four months. The trial court suspended the imposition of sentences and ordered Soto to serve concurrent terms of four months in prison and to continue on probation for concurrent, five-year terms after his release. 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 he has reviewed the record and has found no “tenable legal issue to present on appeal.” Consistent with *Clark*, 196 Ariz. 530, ¶ 32, 2 P.3d at 97, he has provided “a detailed factual and procedural history of the case with citations to the record,” and he asks this court to search the record for any potential error he may have missed in his review. Soto has not filed a supplemental pro se brief.

¶2 We view the evidence in the light most favorable to sustaining Soto’s convictions, see *State v. Tamplin*, 195 Ariz. 246, ¶ 2, 986 P.2d 914, 914 (App. 1999), and conclude sufficient evidence supports the jury’s verdicts. On June 19, 2015, a Tucson police officer initiated a traffic stop after observing the absence of a working license-plate light on the vehicle Soto was driving. After exhibiting six out of six cues for inebriation in a horizontal gaze nystagmus test, Soto was arrested on suspicion of DUI and submitted to breath tests that indicated he had a blood alcohol

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content of .192 within two hours of the traffic stop. A Motor Vehicle Division deputy custodian of records testified that Soto had been served with notices of suspension and revocation of his driver's license, and testimony and documentary evidence showed he previously had been convicted of DUI offenses committed in 2013 and 2014. *See* A.R.S. §§ 28-1381(A)(1), 28-1382(A)(1), 28-1383(A)(1) and (2). We further conclude the terms of imprisonment and probation were authorized by statute and were properly imposed. *See* A.R.S. §§ 13-901(A), (F); 13-902(B)(2); 28-1383(D)(1) and (2).

¶3 In our examination of the record, we have found no reversible error and no arguable issue warranting further appellate review. *See Anders*, 386 U.S. at 744. Accordingly, Soto's convictions and dispositions are affirmed.