

NOTICE: NOT FOR OFFICIAL PUBLICATION.
UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL
AND MAY BE CITED ONLY AS AUTHORIZED BY RULE.

IN THE
ARIZONA COURT OF APPEALS
DIVISION ONE

STATE OF ARIZONA, *Appellee*,

v.

FRANCISCO AGUILERA, *Appellant*.

No. 1 CA-CR 16-0016
No. 1 CA-CR 16-0023
(Consolidated)
FILED 7-12-2016

Appeal from the Superior Court in Maricopa County
No. CR2013-434524-002
No. CR2009-169281-001
The Honorable Charles Donofrio III, Judge *Pro Tempore*

AFFIRMED

COUNSEL

Arizona Attorney General's Office, Phoenix
By Joseph T. Maziarz
Counsel for Appellee

Maricopa County Public Defender's Office, Phoenix
By Paul J. Prato
Counsel for Appellant

STATE v. AGUILERA
Decision of the Court

MEMORANDUM DECISION

Judge Andrew W. Gould delivered the decision of the Court, in which Presiding Judge Diane M. Johnsen and Judge Randall M. Howe joined.

G O U L D, Judge:

¶1 Francisco Aguilera (“Defendant”) appeals from the revocations of his probation and resulting sentences. Defendant’s counsel filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967), and *State v. Leon*, 104 Ariz. 297 (1969), advising this court that after a search of the entire appellate record, no arguable ground exists for reversal. Defendant was granted leave to file a supplemental brief *in propria persona*, but did not do so.

¶2 Our obligation in this appeal is to review “the entire record for reversible error.” *State v. Clark*, 196 Ariz. 530, 537, ¶ 30 (App. 1999). We have jurisdiction pursuant to Article 6, Section 9, of the Arizona Constitution and Arizona Revised Statutes (“A.R.S.”) sections 12-120.21(A)(1), 13-4031 and 13-4033(A)(1) (West 2016).¹ Finding no reversible error, we affirm.

FACTS AND PROCEDURAL HISTORY²

¶3 In 2010, Defendant pleaded guilty to Count One, Burglary in the Second Degree; Count Two, Aggravated Assault; and Count Four, Aggravated Assault (CR2009-169281-001). The court sentenced Defendant to prison on Counts One and Two; upon release from prison, Defendant was ordered to serve a term of probation as to Count Four.

¹ Unless otherwise specified, we cite to the current version of the applicable statutes because no revisions material to this decision have occurred.

² We view the evidence in the light most favorable to sustaining the convictions and resulting sentences. See *State v. Guerra*, 161 Ariz. 289, 293 (1989).

STATE v. AGUILERA
Decision of the Court

¶4 After Defendant was released from prison, he was convicted of burglary. Defendant was placed on intensive probation for 7 years for the new burglary offense (CR2013-434524-002). Additionally, Defendant was reinstated on intensive probation as to the 2009 aggravated assault offense.

¶5 The conditions of Defendant's intensive probation prohibited him from consuming or possessing alcohol and illegal drugs. He was also required to follow a weekly schedule and was not permitted to leave the state without prior written permission.

¶6 In 2015, Defendant admitted to using cocaine and methamphetamine and consuming alcohol. Defendant also signed a report stating that he did not follow his schedule and he had travelled to Mexico without prior approval. Accordingly, following a violation of probation hearing, the court revoked Defendant's probation in both cases. The court sentenced Defendant to the presumptive term of 5 years' imprisonment in CR2013-434524-002 and a concurrent term of 1.5 years' imprisonment in CR2009-169281-001 with credit for time served in both cases.

DISPOSITION

¶7 We have read and considered counsel's brief, carefully searched the entire record for reversible error and found none. *See Clark*, 196 Ariz. at 541, ¶ 49. All of the proceedings were conducted in compliance with the Arizona Rules of Criminal Procedure and substantial evidence supported the probation revocation. Defendant was present and represented by counsel at all critical stages of the proceedings. At sentencing, Defendant and his counsel were given an opportunity to speak and the court imposed a legal sentence.

¶8 Counsel's obligations pertaining to Defendant's representation in this appeal have ended. Counsel need do nothing more than inform Defendant of the status of the appeal and his future options, unless counsel's review reveals an issue appropriate for submission to the Arizona Supreme Court by petition for review. *State v. Shattuck*, 140 Ariz. 582, 584-85 (1984). Defendant shall have thirty days from the date of this

STATE v. AGUILERA
Decision of the Court

decision to proceed, if he so desires, with an *in propria persona* motion for reconsideration or petition for review.

¶9 For the above reasons, we affirm.



Ruth A. Willingham · Clerk of the Court
FILED : AA