

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL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.

ANTONETTE MARY GILCHRIST, *Appellant*.

No. 1 CA-CR 18-0007
FILED 12-4-2018

Appeal from the Superior Court in La Paz County
No. S1500CR201500189
The Honorable Matthew G. Newman, Judge

AFFIRMED

COUNSEL

Craig Williams, Attorney at Law, P.L.L.C., Prescott Valley
By Craig Williams
Counsel for Appellant

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

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MEMORANDUM DECISION

Presiding Judge James B. Morse Jr. delivered the decision of the Court, in which Judge Kent E. Cattani and Judge Lawrence F. Winthrop joined.

M O R S E, Judge:

¶1 This appeal is filed in accordance with *Anders v. California*, 386 U.S. 738 (1967), and *State v. Leon*, 104 Ariz. 297 (1969). Counsel for Antonette Mary Gilchrist has advised this Court that counsel found no arguable questions of law and asks us to search the record for fundamental error. Gilchrist was found to have violated a condition of her probation. Gilchrist was given an opportunity to file a supplemental brief *in propria persona*; she has not done so. After reviewing the record, we affirm Gilchrist's conviction and sentence.

FACTS AND PROCEDURAL HISTORY

¶2 On July 29, 2015, an indictment was filed, and Gilchrist was charged with three counts of Aggravated Assault – two class 3 felonies and one class 4 felony – and two counts of Disorderly Conduct with a Weapon, a class 6 felony. On September 21, 2015, Gilchrist pled guilty to Attempted Aggravated Assault, Domestic Violence, a class 4 felony and was sentenced to three years of supervised probation. On January 22, 2016, a Petition for Revocation of Probation was filed. The Probation Department alleged Gilchrist violated three separate conditions of her probation: failure to comply with a court order to self-surrender to the county jail to serve five days of deferred incarceration, testing positive for methamphetamine, and testing positive for alcohol. On August 1, 2016, Gilchrist admitted to all three allegations and the court found that reinstatement of her probation was appropriate.

¶3 On August 29, 2016, a second Petition for Revocation of Probation was filed, and Gilchrist was charged with violations for failing to reside at an approved residence ("Condition #7") and failing to participate in counseling as directed ("Condition #11"). On October 19, 2017, a contested violation hearing was held. Gilchrist's probation officer testified that Gilchrist filled out her monthly probation report and listed her brother, James Gilchrist's address as her new residence. The probation officer went to James' home to confirm and approve the residence, but no one was there.

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She then located James at work and spoke to him. James stated that Gilchrist was not residing at his home and he did not know where she was located. After the violation hearing, the matter was taken under advisement.

¶4 On October 23, 2017, the court found that Gilchrist had violated Condition #7.¹ She was subsequently sentenced on November 13, 2017, to the mitigated term of 1.5 years in the Arizona Department of Corrections with credit for 286 days of presentence incarceration.

DISCUSSION

¶5 We review Gilchrist's conviction and sentence for fundamental error. *See State v. Flores*, 227 Ariz. 509, 512, ¶ 12 (App. 2011). We have read and considered counsel's brief and fully reviewed the record for reversible error, *see Leon*, 104 Ariz. at 300, and find none. The proceedings were conducted in compliance with the Arizona Rules of Criminal Procedure. So far as the record reveals, counsel represented Gilchrist at all stages of the proceedings, and the sentence imposed was within the statutory limits. We affirm.

¶6 Upon the filing of this decision, defense counsel shall inform Gilchrist of the status of the appeal and of her future options. Counsel has no further obligations unless, upon review, counsel finds an issue appropriate for submission to the Arizona Supreme Court by petition for review. *See State v. Shattuck*, 140 Ariz. 582, 584-85 (1984). Gilchrist shall have 30 days from the date of this decision to proceed, if she desires, with an *in propria persona* motion for reconsideration or petition for review.

¹ The court found that although Gilchrist had received a written directive to participate in counseling as directed, she had received only an oral directive to attend the specific counseling services that formed the basis of the alleged violation of Condition #11. Relying on *State v. Robinson*, 177 Ariz. 543, 545-46 (1994), the court found that the oral directive was insufficient and, therefore, the State had not established a violation of Condition #11.

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CONCLUSION

¶7 For the foregoing reasons, we affirm Gilchrist's conviction and sentence.



AMY M. WOOD • Clerk of the Court
FILED: AA