

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL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

v.

KARA ANNE STOWE, *Appellee*.

No. 1 CA-CR 21-0422

FILED 9-1-2022

Appeal from the Superior Court in Maricopa County

No. CR2019-144622-001

The Honorable Anne H. Phillips, Judge *Pro Tempore*

JURISDICTION ACCEPTED; RELIEF DENIED

COUNSEL

Maricopa County Attorney's Office, Phoenix

By Douglas Gerlach

Counsel for Appellant

Maricopa County Public Defender's Office, Phoenix

By Cory Engle

Counsel for Appellee

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MEMORANDUM DECISION

Presiding Judge Jennifer M. Perkins delivered the decision of the Court, in which Judge James B. Morse Jr. and Judge Michael J. Brown joined.

P E R K I N S, Judge:

¶1 The State appeals the early termination of Kara Stowe’s probation. For the following reasons, we accept special action jurisdiction and deny relief.

FACTUAL AND PROCEDURAL BACKGROUND

¶2 In September 2019, the State charged Stowe with multiple counts of aggravated and extreme aggravated driving under the influence (“DUI”). Stowe sold her car to pay for an attorney. Stowe later pled guilty to one count of extreme aggravated DUI with a blood alcohol content of .20 or more, a class 6 undesignated felony. The superior court sentenced Stowe to two years’ supervised probation and a 45-day jail sentence. The sentencing order stated, “[a]ll but 14 consecutive days in jail may be suspended [if] the defendant equips any motor vehicle she operates with a certified ignition interlock device for a period of 12 months.” Stowe served the 14-day jail sentence following the court’s pronouncement of sentence.

¶3 In August 2021, Stowe’s probation officer petitioned for early termination of Stowe’s probation. The State opposed early termination, arguing Stowe needed to serve 31 more days in jail because she failed to install an interlock device on a vehicle. Stowe stated she did not install an interlock device because she sold her car and has not driven since her sentencing. The superior court terminated Stowe’s probation in September 2021, and the State timely appealed.

DISCUSSION

¶4 Although neither party raised the issue on appeal, we have an independent obligation to ensure we have jurisdiction. *Ochoa v. Bojorquez*, 245 Ariz. 535, 535–36, ¶ 2 (App. 2018). Our legislature has specified seven circumstances in which the State has authority to file an appeal in a criminal case. *See* A.R.S. § 13-4032. Here, the State alleged that the superior court’s order both affected substantial rights of the State and amounted to an illegal sentence. A.R.S. § 13-4032(4)–(5). It is not clear that either provision applies

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under these circumstances to authorize the State's appeal. But we need not decide that question today; rather, we exercise our discretion to accept special action jurisdiction. *See State v. Bernini*, 230 Ariz. 223, 225, ¶¶ 4-5 (App. 2012) (declining to resolve whether the State had statutory authorization to appeal and exercising special action jurisdiction).

¶5 Special action jurisdiction is appropriate when a party has no "equally plain, speedy, and adequate remedy by appeal," Ariz. R.P. Spec. Act. 1(a), or in cases "involving a matter of first impression, statewide significance, or pure questions of law." *State ex rel. Pennartz v. Olcavage*, 200 Ariz. 582, 585, ¶ 8 (App. 2001). The issue here is a matter of first impression and a pure question of law: whether a probationer must install an ignition interlock device to suspend the remainder of her jail time under A.R.S. § 28-1382(I).

¶6 We review issues of statutory construction *de novo*. *BSI Holdings, LLC v. Ariz. Dep't of Transp.*, 244 Ariz. 17, 19, ¶ 9 (2018). Our objective is to "effectuate the text if it is clear and unambiguous." *Id.* If the text presents "only one reasonable interpretation, we apply it without further analysis." *Stambaugh v. Killian*, 242 Ariz. 508, 509, ¶ 7 (2017) (citation omitted).

¶7 A person convicted for DUI with a blood alcohol content of .20 or more is not eligible for probation or suspension of her sentence unless she serves at least 45 consecutive days in jail. A.R.S. § 28-1382(D)(1). But the superior court "may suspend all but fourteen days of the sentence if the person equips *any motor vehicle the person operates* with a certified ignition interlock device for a period of twelve months." A.R.S. § 28-1382(I) (emphasis added).

¶8 The State does not dispute that Stowe did not own a vehicle, could not afford a vehicle, and did not operate a vehicle during her probation. Yet the State argues Stowe needed to install and maintain an ignition interlock device on *a* motor vehicle for 12 months—and her failure to do so warrants an additional 31 days in jail. We disagree. Subsection (I) conditions suspension of a portion of the required jail term on a probationer installing an interlock device on any vehicle she operates. The State urges us to construe that provision to either (i) make a probationer ineligible for suspension of a part of the jail sentence if she does not own or operate a car, or (ii) require a probationer to acquire and operate a car to qualify for the reduced sentence. Even if the statutory text could support such an approach, we decline to adopt such an absurd interpretation. Read in its entirety, the statute does not gratuitously require a probationer to install an

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interlock device on *a* motor vehicle but unambiguously conditions installation of an interlock device on any motor vehicle the probationer operates. *See State v. Ariz. Bd. of Regents*, 253 Ariz. 6, 14 ¶ 28 (2022) ("In considering two plausible interpretations of a statute, we will not credit one that leads to absurd results."). Because Stowe did not operate any motor vehicle during her probation, she complied with the statute and her sentence. The superior court did not err when it terminated Stowe's probation.

CONCLUSION

¶9 We accept special action jurisdiction and deny relief.



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