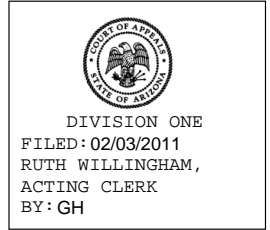


NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED  
EXCEPT AS AUTHORIZED BY APPLICABLE RULES.  
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);  
Ariz. R. Crim. P. 31.34

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION ONE



STATE OF ARIZONA, ) No. 1 CA-CR 10-0370  
)  
Appellee, ) DEPARTMENT S  
)  
v. ) **MEMORANDUM DECISION**  
)  
LINDA J. NEIL, ) (Not for Publication -  
) Rule 111, Rules of the  
Appellant. ) Arizona Supreme Court)  
)

Appeal from the Superior Court in Maricopa County

Cause No. CR 2009-149745-001 SE

The Honorable Warren J. Granville, Judge

**AFFIRMED AS MODIFIED**

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Terry Goddard, Attorney General Phoenix Phoenix  
By Kent E. Cattani, Chief Counsel  
Criminal Appeals/Capital Litigation Section  
and Joseph T. Maziarz, Assistant Attorney General  
Attorneys for Appellee

James J. Haas, Maricopa County Public Defender Phoenix  
By Edith M. Lucero, Deputy Public Defender  
Attorneys for Appellant

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**T I M M E R**, Chief Judge

¶1 Linda J. Neil appeals the trial court's disposition order, which states Neil was convicted of two undesignated felony offenses. Neil asks this court to exercise its authority

to correct the sentencing order to reflect that the trial court expressly intended to designate the convictions as misdemeanors, as previously reflected in a written ruling and as stated orally at the disposition hearing. The State confesses error, and for the reasons that follow, we agree.

¶2 On September 4, 2009, the State charged Neil with count one, possession of marijuana, and count two, possession of drug paraphernalia, both class 6 felonies. Several months later, the State moved to amend its information to designate both counts as misdemeanors. At the final trial management conference, the court granted the motion.

¶3 After a bench trial, the court found Neil guilty of both counts and subsequently placed her on probation. Despite the court's earlier ruling on the State's motion and its oral pronouncement at the disposition hearing, the court's minute entries dated March 22 and April 13, 2010, stated Neil was guilty of two class 6 undesignated felonies.

¶4 Upon finding a discrepancy between an oral pronouncement at a disposition hearing and a resulting minute entry, we must determine the trial court's intent through a review of the record. *State v. Stevens*, 173 Ariz. 494, 496, 844 P.2d 661, 663 (App. 1992). Based on the court's grant of the State's motion to designate the charges as misdemeanors and the court's oral pronouncement at the disposition hearing, the court

indisputably intended to designate counts one and two as misdemeanors.

¶15 We therefore modify the court's disposition to reflect that Neil was convicted of two misdemeanor drug offenses: possession of marijuana and possession of drug paraphernalia. See *State v. Contreras*, 180 Ariz. 450, 453 n.2, 885 P.2d 138, 141 (App. 1994) (holding remand unnecessary if trial court's intention clear from the record). We affirm the convictions and dispositions in all other respects.

/s/  
Ann A. Scott Timmer, Chief Judge

CONCURRING:

/s/  
Diane M. Johnsen, Judge

/s/  
Donn Kessler, Judge