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EXCEPT AS AUTHORIZED BY APPLICABLE RULES.  
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);  
Ariz. R. Crim. P. 31.24



DIVISION ONE  
FILED: 07/01/10  
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BY: JT

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION ONE

IN RE ANASTASSIA R. )  
 ) No. 1 CA-JV 10-0055  
 )  
 ) DEPARTMENT B  
 )  
 ) **MEMORANDUM DECISION**  
 ) (Not for Publication -  
 ) 103(G) Ariz. R.P. Juv. Ct.;  
 ) Rule 28 ARCAP)  
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Appeal from the Superior Court in Maricopa County

Cause No. JV175673

The Honorable Dawn M. Bergin, Judge

**AFFIRMED**

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James J. Haas, Maricopa County Public Defender Phoenix  
By Suzanne W. Sanchez, Deputy Public Defender  
Attorneys for Appellant

Richard M. Romley, Maricopa County Attorney Phoenix  
By Jeffrey W. Trudgian, Appeals Bureau Chief,  
Maricopa County Attorney's Office  
Attorneys for Appellee

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**S W A N N**, Judge

¶1 Anastassia R. appeals her adjudication of delinquency for a class 1 misdemeanor, Threatening or Intimidating, pursuant to A.R.S. § 13-1202(A)(1). Appellate counsel for Anastassia has filed a brief in accordance with *Smith v. Robbins*, 528 U.S. 259 (2000), *Anders v. California*, 386 U.S. 738 (1967), and *Maricopa County Juvenile Action No. JV-117258*, 163 Ariz. 484, 788 P.2d 1235 (App. 1989), requesting that this court search the record for fundamental error. Finding no such error, we affirm.

#### Factual and Procedural History

¶2 After school on February 5, 2008, 11-year-old Anastassia confronted the victim in the lobby of their elementary school. Anastassia walked up to the victim and told her that she was going to slit her throat. Anastassia then drew her thumb across her own neck, as if she were slitting her throat. During this confrontation, Anastassia also warned the victim that she was going to come to her house and beat her up.

¶3 Convinced that Anastassia would not act on her threats, the victim went home from school with her twin sister. After arriving home, however, the victim heard a knock on her door. The victim's sister answered the door to find Anastassia's sister there.<sup>1</sup> Anastassia's sister asked the victim if she wanted to fight Anastassia, and the victim responded that she did not. When Anastassia's brother relayed the message that

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<sup>1</sup> Anastassia and her brother were also present.

the victim did not want to fight her, Anastassia stated, "She wants to fight me. I know she does." Additional conversation ensued, during which the victim's sister called her mother. Soon thereafter, the twins closed the door and went upstairs. But Anastassia and her siblings "kept banging on [the] door, kicking it, [and] throwing rocks at it." After Anastassia and her siblings left, the police were called.

¶4 On December 11, 2008, the State filed a petition alleging Anastassia delinquent. On January 6, 2009, an Advisory Hearing was held, whereby the court found Anastassia indigent and appointed her counsel. After the State declined to dismiss the charges, defense counsel requested that Anastassia undergo a mental competency evaluation.

¶5 On February 9, 2009, Anastassia was ordered to participate in a mental competency evaluation. Two doctors evaluated Anastassia, with one indicating that she was competent and the other finding that she was not competent. A third doctor was appointed to evaluate her competency. The third doctor found that she was not competent, but that she could be educated to attain a level of competence. Thereafter, Anastassia was ordered to participate in a restoration program. During the July 15, 2009 Review of Restoration Hearing, Anastassia was again found incompetent and ordered to continue participation in the restoration program. Despite her

participation in the program, on September 11, 2009, Anastassia was again determined incompetent and, once again, ordered to continue participation in the restoration program. At the third Review of Restoration Hearing, Anastassia was found competent.<sup>2</sup>

¶16 Adjudication and Disposition Hearings were conducted on February 24, 2010. After considering the evidence, the juvenile court found Anastassia delinquent. The court determined that summary probation was appropriate and ordered Anastassia to complete eight hours of community service and to enroll in Students Against Destructive Decisions ("SADD") classes.

¶17 Anastassia timely filed a notice of appeal. We have jurisdiction pursuant to A.R.S. §§ 12-120.21(A)(1) (2003), 8-235(A) (2007), and Ariz. R.P. Juv. Ct. 103(A).

#### Discussion

¶18 We have read and considered counsel's brief and fully reviewed the record for reversible error. See *JV-117258*, 163 Ariz. at 488, 788 P.2d at 1239. We find none.

¶19 The record indicates that all the proceedings were conducted in compliance with the laws of this state and the applicable rules of the court. See Ariz. R.P. Juv. Ct. 6, 29, 30. Anastassia was present at all critical stages and was

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<sup>2</sup> Anastassia's counsel was present at each of the Review of Restoration Hearings.

represented by counsel during the Advisory Hearing, Competency Hearing, Review of Restoration Hearings, Adjudication Hearing, Disposition Hearing, and on this appeal. See Ariz. R.P. Juv. Ct. 10, 12(A).

¶10 Pursuant to A.R.S. § 8-291.01, defense counsel requested a competency evaluation to determine whether Anastassia had sufficient ability to consult with her attorney "with a reasonable degree of rational understanding." A.R.S. § 8-291(2). The initial competency evaluations indicated that Anastassia did not have a present ability to consult with her counsel with a reasonable degree of rational understanding. But her doctors opined that she could be restored to competency within the statutory time limits; the juvenile court, therefore, was not required to dismiss the charges with prejudice. See *In re Charles B.*, 194 Ariz. 174, 177, ¶¶ 7-8, 978 P.2d 659, 662 (App. 1998).

¶11 The testimony presented at the hearing was sufficient evidence from which the court could find Anastassia delinquent. And upon a finding of delinquency, it was within the juvenile court's authority to place Anastassia on summary probation and order her to complete eight hours of community service and SADD classes. See A.R.S. § 8-341(A)(1)(a) (Supp. 2009).<sup>3</sup>

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<sup>3</sup> We cite the current version of the statute because no revisions material to this decision have since occurred.

**CONCLUSION**

¶12 We have reviewed the entire record for reversible error and find none. Accordingly, we affirm. Pursuant to *State v. Shattuck*, 140 Ariz. 582, 584-85, 684 P.2d 154, 156-57 (1984), Anastassia's counsel's obligations in this appeal are at an end. Counsel need only inform Anastassia of the status of her appeal and of her future options, unless counsel's review reveals an issue appropriate for submission to the Arizona Supreme Court by petition for review. See Ariz. R.P. Juv. Ct. 107(A). See also Ariz. R.P. Juv. Ct. 107(J).

/s/

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PETER B. SWANN, Judge

CONCURRING:

/s/

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PATRICIA K. NORRIS, Presiding Judge

/s/

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DANIEL A. BARKER, Judge