FILED BY CLERK
JUL 16 2013
COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

THE STATE OF ARIZONA, Appellee, v. ANGELICA MARLENE WERDERMAN, Appellant.	2 CA-CR 2013-0016 DEPARTMENT A MEMORANDUM DECISION Not for Publication Rule 111, Rules of the Supreme Court

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR20101556001

Honorable Howard Fell, Judge Pro Tempore

AFFIRMED AS CORRECTED

Altfeld & Battaile P.C.
By Robert A. Kerry
Tucson
Attorneys for Appellant

M I L L E R, Judge.

¶1 After a jury trial, appellant Angelica Werderman was convicted of two counts of aggravated driving with an illegal drug or its metabolite in her body while a minor was present, two counts of endangerment involving a risk of physical injury, two counts of child abuse, and one count each of aggravated assault of a minor under fifteen—a dangerous offense—and assault. The trial court sentenced her to concurrent prison terms, the longest of which was seven years.

¶2 Counsel has filed a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967), avowing he has found no arguable issues to raise on appeal. Consistent with *State v. Clark*, he has provided "a detailed factual and procedural history of the case with citations to the record," 196 Ariz. 530, ¶ 32, 2 P.3d 89, 97 (App. 1999), and asks this court to search the record for fundamental error. Werderman has not filed a supplemental brief.

¶3 We view the evidence in the light most favorable to sustaining the jury's verdicts, *see State v. Tamplin*, 195 Ariz. 246, ¶ 2, 986 P.2d 914, 914 (App. 1999), and conclude the evidence was sufficient to support the convictions. *See* A.R.S. §§ 13-1201, 13-1203, 13-1204(A)(1), 13-3623(B)(2), 28-1381(A)(3), 28-1383(A)(3). At trial, the state presented evidence that in May 2009, the vehicle Werderman was driving, with her four-year-old son J. and her eighteen-month-old son M. as passengers, ran off the road and rolled over, causing M. to suffer decreased consciousness and possible traumatic brain injury and J. to suffer multiple vertebral fractures. A sample of Werderman's blood was drawn and determined to contain a metabolite of cocaine, and Werderman admitted at trial that she had ingested cocaine the night before the crash.

¶4 The trial court's sentencing minute entry erroneously designated the aggravated assault as "nondangerous," but it is clear from the verdict form and the sentencing transcript that Werderman was convicted of a dangerous, class two felony and sentenced to a minimum term for this offense. By this decision, we amend the minute entry to correct this clerical error. We also vacate the portion of the minute entry reducing Werderman's fines, fees, and assessments to a Criminal Restitution Order (CRO), "with no interest, penalties or collection fees to accrue" during her imprisonment. The imposition of a CRO before a defendant's sentence has expired is unauthorized by

statute and "'constitutes an illegal sentence, which is necessarily fundamental, reversible error.'" *State v. Lopez*, 231 Ariz. 561, ¶ 2, 298 P.3d 909, 910 (App. 2013), *quoting State v. Lewandowski*, 220 Ariz. 531, ¶ 15, 207 P.3d 784, 789 (App. 2009). In all other respects, Werderman's sentence was authorized by statute and imposed in a lawful manner. *See* A.R.S. §§ 13-702(C),(D); 13-704(A).

¶5 In our examination of the record, we have found no other fundamental or reversible error and no arguable issue warranting further appellate review. *See Anders*, 386 U.S. at 744. Accordingly, we vacate the CRO and correct the sentencing minute entry as noted above. We otherwise affirm Werderman's convictions and sentences.

/s/ Michael Miller
MICHAEL MILLER, Judge

CONCURRING:

/s/ Joseph W. Howard
JOSEPH W. HOWARD, Chief Judge

/s/ Garye L. Vásquez
GARYE L. VÁSQUEZ, Presiding Judge