

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Appellee,

v.

MANUEL EDUARDO MORALES,
Appellant.

No. 2 CA-CR 2013-0061
Filed November 19, 2013

THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.

NOT FOR PUBLICATION

See Ariz. R. Sup. Ct. 111(c); Ariz. R. Crim. P. 31.24

Appeal from the Superior Court in Pima County
No. CR20112150001
The Honorable Deborah Bernini, Judge

AFFIRMED

COUNSEL

Isabel G. Garcia, Pima County Legal Defender
By Alex D. Heveri, Assistant Legal Defender, Tucson

Counsel for Appellant

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MEMORANDUM DECISION

Judge Espinosa authored the decision of the Court, in which Presiding Judge Kelly and Judge Eckerstrom concurred.

ESPINOSA, Judge:

¶1 Following a jury trial, appellant Manuel Morales was convicted of aggravated driving under the influence of an intoxicant (DUI) while his driver license was suspended, revoked, or restricted; aggravated driving with a blood alcohol concentration (BAC) of .08 or greater while his license was suspended, revoked, or restricted; aggravated DUI based on having committed or been convicted of two or more prior DUI violations; and aggravated driving with a BAC of .08 or more having committed or been convicted of two or more prior DUI violations. The trial court suspended the imposition of sentence and placed Morales on supervised probation for five years,¹ ordering him to serve four months in the Arizona Department of Corrections as a condition of his probation. Counsel has filed a brief in compliance with *Anders v. California*, 386 U.S. 738 (1967), and *State v. Clark*, 196 Ariz. 530, 2 P.3d 89 (App. 1999). Morales has not filed a supplemental brief.

¶2 Although counsel avows she has found no “meritorious issue to raise on appeal,” she asks this court “to search the record in this case for error.” She asserts our review is not limited to one for fundamental error, arguing that “*Anders* requires the appellate court to review for any error that might warrant relief—fundamental or not.” Even if we were to agree with counsel, it would not change the outcome here.

¹In what appears to be a typographical error, the sentencing order imposed probation for “five months” on count one, and five years on counts two through four. However, it is clear from the sentencing transcript and the written conditions of probation that the trial court intended to place Morales on probation “for a period of five years” on all four counts.

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¶3 Viewed in the light most favorable to sustaining the verdicts, *see State v. Tamplin*, 195 Ariz. 246, ¶ 2, 986 P.2d 914, 914 (App. 1999), the evidence was sufficient to support the jury's findings of guilt, *see* A.R.S. §§ 28-1381, 28-1383. In sum, in June 2011, a Tucson police officer found Morales in his parked vehicle with two flat tires on the driver's side and damages to that side of the vehicle. When Morales exited the vehicle, the officer noticed numerous signs of intoxication, and blood tests taken approximately two hours later revealed Morales had a BAC of .237. The parties stipulated at trial that on the date of the offense, Morales's driver license or the privilege to drive was suspended, a fact he knew or should have known, and that he had been convicted of two prior DUI offenses within eighty-four months of the underlying offense. We further conclude the term of probation is within the statutory limit. *See* A.R.S. § 13-902(B)(1).

¶4 In our examination of the record, we have found no error warranting reversal of the convictions, the imposition of probation, or any other form of appellate relief. Therefore, Morales's convictions and the term of probation are affirmed.