

IN THE  
**ARIZONA COURT OF APPEALS**  
DIVISION TWO

---

THE STATE OF ARIZONA,  
*Appellee,*

*v.*

MALCOLM FREDDIE RUBIO,  
*Appellant.*

No. 2 CA-CR 2013-0207  
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NOT FOR PUBLICATION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 Pinal County  
No. S1100CR201201230  
The Honorable Boyd T. Johnson, Judge

**AFFIRMED**

---

COUNSEL

Flores & Clark, LLC, Globe  
By Daisy Flores

*Counsel for Appellant*

STATE v. RUBIO  
Decision of the Court

---

MEMORANDUM DECISION

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

---

ESPINOSA, Judge:

¶1 Malcolm Rubio was convicted after a jury trial of public sexual indecency to a minor under the age of fifteen and two counts of public sexual indecency. The trial court sentenced him to a maximum, enhanced, three-year prison term for public sexual indecency to a minor and to time served on the remaining counts. 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), asserting she has reviewed the record but found no arguable issue to raise on appeal. Consistent with *Clark*, 196 Ariz. 530, ¶ 32, 2 P.3d at 97, she has provided “a detailed factual and procedural history of the case with citations to the record” and asks this court to search the record for error. Rubio has not filed a supplemental brief.

¶2 Viewing the evidence in the light most favorable to sustaining the verdicts, *see State v. Tamplin*, 195 Ariz. 246, ¶ 2, 986 P.2d 914, 914 (App. 1999), there was sufficient evidence to support the jury’s findings. Rubio was seen masturbating at a public pool by at least three individuals, one of whom was a minor under the age of fifteen. *See* A.R.S. §§ 13-1401(2), 13-1403(A)(1), (B). And Rubio’s sentences were properly imposed and did not exceed the legal statutory limit. A.R.S. §§ 13-701, 13-703, 13-1403(C).

¶3 Pursuant to our obligation under *Anders*, we have searched the record for fundamental, reversible error and found none. *See State v. Fuller*, 143 Ariz. 571, 575, 694 P.2d 1185, 1189 (1985) (*Anders* requires court to search record for fundamental error). Rubio’s convictions and sentences are affirmed.