

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. 31.24

FILED BY CLERK

AUG 15 2013

COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

IN RE ALEXANDREA F.)
) 2 CA-JV 2013-0036
) DEPARTMENT A
)
) MEMORANDUM DECISION
) Not for Publication
) Rule 28, Rules of Civil
) Appellate Procedure
_____)

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. 14272102

Honorable Jane Butler, Judge Pro Tempore

AFFIRMED

Barbara LaWall, Pima County Attorney
By Amanda Ortiz-Moreno

Tucson
Attorneys for State

Lori J. Lefferts, Pima County Public Defender
By Susan C. L. Kelly

Tucson
Attorneys for Minor

HOWARD, Chief Judge.

¶1 Minor Alexandra F. appeals from the juvenile court’s April 2013 order adjudicating her delinquent for the offense of shoplifting, placing her on probation for a six-month term, and directing that she be detained pending placement approved by Child Protective Services (CPS). Citing *Anders v. California*, 386 U.S. 738 (1967), and *State v. Clark*, 196 Ariz. 530, 2 P.3d 89 (App. 1999), counsel has provided a factual and procedural history of the case with citations to the record and asks this court to search the record for error. *See also In re Maricopa Cnty. Juv. Action No. JV-117258*, 163 Ariz. 484, 486-87, 788 P.2d 1235, 1237-38 (App. 1989) (juvenile entitled to *Anders* appeal from delinquency disposition). Counsel states “[t]he only arguable issue which appears to exist in this delinquency appeal is . . . [w]hether the trial court abused its discretion in ordering Alexandra to be detained pending CPS placement,” but maintains her review “indicate[s] that this is not a meritorious issue which can be argued in a formal appellate brief.”¹

¶2 Consistent with *Anders*, we have reviewed the record in its entirety and are satisfied it supports counsel’s recitation of the facts. Viewed in the light most favorable to upholding the juvenile court’s orders, *see In re John M.*, 201 Ariz. 424, ¶ 7, 36 P.3d 772, 774 (App. 2001), the evidence established that the court adjudicated Alexandra

¹Counsel’s statement that this issue “is not a meritorious” one that “can be argued in a formal appellate brief” is somewhat imprecise. In determining whether full adversarial briefing is required, the question for both counsel and this court is not whether a claim ultimately would be found “meritorious,” but whether it provides “*arguably* meritorious grounds” for relief. *Penson v. Ohio*, 488 U.S. 75, 81 (1988) (emphasis added). Our review persuades us, however, that counsel has used the phrase “arguable issue” in “the unusual way” the Supreme Court used it in *Anders*, to mean “an issue arguably supporting the appeal even though the appeal was wholly frivolous.” *Smith v. Robbins*, 528 U.S. 259, 285 (2000). “Such an issue does not warrant a merits brief,” *id.*, and counsel has not filed one.

delinquent after she admitted taking items from a local store's display without paying for them. Alexandra, who had been placed with her grandparents and was due to deliver a child in June 2013, then failed to appear for two scheduled disposition hearings. When Alexandra and her grandmother appeared in response to the court's order to show cause, the court conducted a disposition hearing and heard evidence that Alexandra had actually been living with a boyfriend whose address was unknown. According to a CPS caseworker, CPS was attempting to arrange an alternative placement. The court placed Alexandra on probation and, upon finding the existing family placement contrary to Alexandra's welfare, ordered her taken into custody pending a CPS-approved placement for her.

¶3 We conclude substantial evidence supported the juvenile court's adjudication of delinquency and the court's disposition was statutorily authorized. *See* A.R.S. § 8-341(A)(1). We have found no reversible error and no arguable issue warranting further appellate review, *see Anders*, 386 U.S. at 744, and we therefore affirm the court's judgment of delinquency and its disposition.

/s/ Joseph W. Howard

JOSEPH W. HOWARD, Chief Judge

CONCURRING:

/s/ Garye L. Vásquez

GARYE L. VÁSQUEZ, Presiding Judge

/s/ Peter J. Eckerstrom

PETER J. ECKERSTROM, Judge