

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

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THE STATE OF ARIZONA,  
*Appellee,*

*v.*

LEONARD TURNER,  
*Appellant.*

No. 2 CA-CR 2014-0394  
Filed December 2, 2015

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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NOT FOR PUBLICATION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)(1); Ariz. R. Crim. P. 31.24.*

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Appeal from the Superior Court in Pima County  
No. CR20131783001  
The Honorable Richard D. Nichols, Judge

**AFFIRMED**

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COUNSEL

Steven R. Sonenberg, Pima County Public Defender  
By Frank P. Leto, Assistant Public Defender, Tucson  
*Counsel for Appellant*

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**MEMORANDUM DECISION**

Presiding Judge Vásquez authored the decision of the Court, in which Judge Howard and Judge Kelly<sup>1</sup> concurred.

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V Á S Q U E Z, Presiding Judge:

¶1 Following a jury trial, appellant Leonard Turner was convicted of aggravated driving with an alcohol concentration (BAC) of .08 or more while his license was suspended, revoked, or restricted; aggravated driving under the influence (DUI) while his license was suspended, revoked, or restricted; aggravated DUI having committed two or more prior DUI violations; and aggravated driving with a BAC of .08 or more having committed two or more prior DUI violations. The trial court sentenced him to enhanced, presumptive, concurrent prison terms, each of which was ten years. 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), stating he “has reviewed the record and he is unable to find a meritorious issue for appeal.” Counsel has asked us to search the record for reversible error. Turner has not filed a supplemental brief.

¶2 Viewed in the light most favorable to sustaining the verdict, the evidence was sufficient to support the jury’s findings of guilt. See *State v. Tamplin*, 195 Ariz. 246, ¶ 2, 986 P.2d 914, 914 (App. 1999). The evidence presented at trial showed that in April 2013 a Tucson police officer saw Turner, who previously had been

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<sup>1</sup>The Hon. Virginia C. Kelly, a retired judge of this court, is called back to active duty to serve on this case pursuant to orders of this court and our supreme court.

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convicted of DUI offenses committed in 2000 and 2005,<sup>2</sup> and whose license had been suspended continuously since 1993 and revoked in 1997, fail to stop at a stop sign. The officer who stopped Turner's vehicle noticed a "strong odor of intoxicants coming from his breath as well as bloodshot and watery eyes and slurred speech." Turner exhibited cues for impairment on field sobriety tests and a subsequent breath test showed he had a BAC of .189. We further conclude the sentence imposed is within the statutory limit. See A.R.S. §§ 13-703(J); 28-1381(A); 28-1383(A)(1), (2), (L)(1).

¶3 Pursuant to our obligation under *Anders*, we have searched the record for fundamental, reversible error and have 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). Therefore, Turner's convictions and sentences are affirmed.

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<sup>2</sup>Turner was incarcerated after the 2000 offense until 2003 and again after the 2005 offense until 2008. See A.R.S. § 28-1383(B) (time incarcerated excluded from eighty-four month calculation).