IN THE

ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Appellee,

v.

JULIAN FERNANDO RAMIREZ,
Appellant.

No. 2 CA-CR 2016-0083
Filed August 8, 2016

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NOT FOR PUBLICATION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.

Appeal from the Superior Court in Pima County
No. CR20150743001
The Honorable Richard S. Fields, Judge

AFFIRMED IN PART; VACATED IN PART

COUNSEL

Dean Brault, Pima County Legal Defender
By Alex D. Heveri, Assistant Legal Defender, Tucson
Counsel for Appellant

MEMORANDUM DECISION

Judge Staring authored the decision of the Court, in which Presiding Judge Howard and Judge Espinosa concurred.

S T A R I N G, Judge:

¶1 Julian Ramirez appeals from the trial court's February 2016 order revoking his probation and sentencing him to the presumptive, 2.5-year term of imprisonment with credit for 334 days' presentence incarceration. As part of the sentencing, the court also affirmed "all previously assessed fines, fees and assessments" and ordered that "all fines, fees[,] assessments and/or restitution are reduced to a Criminal Restitution Order [CRO]." 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 she has reviewed the record and has found no "meritorious issue to raise on appeal." Counsel has asked us to search the record for "error." Ramirez has not filed a supplemental brief. We affirm in part and vacate in part.

¶2 On appeal, we view the evidence in the light most favorable to upholding the trial court's findings that Ramirez had violated the conditions of his probation, as alleged in the October 2015 petition to revoke. *State v. Vaughn*, 217 Ariz. 518, n.2, 176 P.3d 716, 717 n.2 (App. 2008). So viewed, the evidence established that, pursuant to an April 2015 plea agreement, Ramirez was convicted of aggravated assault, domestic violence. *See* A.R.S. § 13-1204. In May 2015, the trial court suspended the imposition of sentence and placed Ramirez on a four-year term of probation, ordered that he serve ninety days in jail as a condition of his probation, and ordered him to pay various fees and assessments. In October 2015, the state filed a petition to revoke probation, and after a contested revocation hearing held in November 2015, the court concluded that Ramirez had violated the terms of his probation by failing to: participate in

counseling; comply with drug and alcohol testing; obtain written approval to associate with known felons and to contact the victim; abide by his probation schedule; complete required community restitution hours; and, the court found, Ramirez possessed or controlled a prohibited weapon.

¶3   The trial court acted within its discretion by revoking Ramirez's probation and imposing a sentence. *See* Ariz. R. Crim. P. 27.8(c)(2) (upon determination defendant violated condition of probation, "court may revoke, modify or continue probation [and i]f probation is revoked, the court shall pronounce sentence"). And, the sentence imposed upon the revocation of Ramirez's probation was within the range authorized by law. *See* A.R.S. §§ 13-702(D), 1204(B) and (D).

¶4   Pursuant to our obligation under *Anders*, we have searched the record for fundamental, reversible error and have found one such error. As previously noted, the trial court ordered fines, fees, assessments and restitution reduced to a CRO. But a "CRO is unauthorized except to the extent it pertains to restitution." *State v. Veloz*, 236 Ariz. 532, ¶ 20, 342 P.3d 1272, 1278 (App. 2015); *see also* A.R.S. § 13-805(C)(1). Because no restitution was imposed, we therefore vacate the CRO.[1] The trial court's findings of a probation violation, its revocation of Ramirez's probation, and the sentence imposed are otherwise affirmed.

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[1] It appears that no fines or restitution were imposed; rather, only fees and assessments were imposed.