

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

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THE STATE OF ARIZONA,  
*Appellee,*

*v.*

BRANDY DAWN KAUHN,  
*Appellant.*

No. 2 CA-CR 2016-0371  
Filed September 18, 2017

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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NOT FOR PUBLICATION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 Pinal County  
No. S1100CR201501484  
The Honorable Richard T. Platt, Judge Pro Tempore

**AFFIRMED**

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COUNSEL

Mark Brnovich, Arizona Attorney General  
Joseph T. Maziarz, Chief Counsel, Phoenix  
By Karen Moody, Assistant Attorney General, Tucson  
*Counsel for Appellee*

The Stavris Law Firm, PLLC, Scottsdale  
By Christopher Stavris  
*Counsel for Appellant*

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**MEMORANDUM DECISION**

Chief Judge Eckerstrom authored the decision of the Court, in which Presiding Judge Vásquez and Judge Eppich concurred.

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ECKERSTROM, Chief Judge:

¶1 Brandy Kauh n appeals from her conviction and disposition for aggravated driving with the presence of a drug or its metabolite in her body. For the following reasons, we affirm.

**Factual and Procedural Background**

¶2 “We view the evidence in the light most favorable to sustaining the conviction[.]” *State v. Gay*, 214 Ariz. 214, ¶ 2, 150 P.3d 787, 790 (App. 2007). In August 2014, an officer with the Pinal County Sheriff’s Office stopped Kauh n for broken taillights and weaving within her lane. Another officer took a sample of Kauh n’s blood, which tested positive for tetrahydrocannabinol (THC). Kauh n was convicted of aggravated driving with the presence of a drug or its metabolite in her body. The trial court suspended the imposition of sentence and imposed a three-year term of supervised probation. This appeal followed.

**Evidence of Affirmative Defense**

¶3 Kauh n claims the trial court erred when it did not allow her to present evidence to support her affirmative defense that she was an Arizona Medical Marijuana Act (AMMA) cardholder and that the amount of marijuana or its metabolite in her system was not sufficient to cause her to be impaired. *See* A.R.S. § 36-2802(D); *Dobson v. McClennen*, 238 Ariz. 389, ¶ 20, 361 P.3d 374, 378 (2015). “We review the trial court’s decision to exclude evidence for abuse of discretion.”<sup>1</sup>

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<sup>1</sup>Kauh n asserts that the trial court violated her constitutional rights, but has not developed any legal argument concerning this

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*State v. Villalobos*, 225 Ariz. 74, ¶ 33, 235 P.3d 227, 235 (2010). Contrary to Kauhn's claim, however, the record demonstrates that Kauhn was permitted to enter her AMMA card into evidence. Kauhn also was permitted to testify personally that she did not believe she was impaired, and to call other witnesses who observed her behavior prior to driving to testify that she did not seem impaired.

¶4 On appeal, Kauhn has not pointed to any evidence she wished to present that the trial court did not admit. Nor did she make any offers of proof concerning any excluded evidence. *See* Ariz. R. Evid. 103(a)(2). Because Kauhn has not demonstrated that the court actually excluded any proffered evidence in support of her affirmative defense, she has not demonstrated that the court abused its discretion. *Villalobos*, 225 Ariz. 74, ¶ 33, 235 P.3d at 235.

**Disposition**

¶5 For the foregoing reasons, we affirm Kauhn's conviction and disposition.

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issue. We therefore deem it waived. *See State v. Moody*, 208 Ariz. 424, n.9, 94 P.3d 1119, 1147 n.9 (2004).