

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Appellee,

v.

DELANA RENE GILMORE,
Appellant.

Nos. 2 CA-CR 2019-0088 and 2 CA-CR 2019-0089 (Consolidated)
Filed January 30, 2020

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NOT FOR PUBLICATION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. 31.19(e).

Appeal from the Superior Court in Gila County
Nos. S0400CR201700183 and S0400CR201800213
The Honorable Bryan B. Chambers, Judge

AFFIRMED

COUNSEL

Emily Danies, Tucson
Counsel for Appellant

MEMORANDUM DECISION

Chief Judge Vásquez authored the decision of the Court, in which Presiding Judge Staring and Judge Brearcliffe concurred.

V Á S Q U E Z, Chief Judge:

¶1 Pursuant to a plea agreement in January 2019, Delana Gilmore was convicted of two counts of possession of drug paraphernalia in companion cases (S0400CR201700183 and S0400CR201800213), which have been consolidated on appeal. The trial court suspended the imposition of sentence and placed Gilmore on concurrent terms of probation for twenty-four months. A few days later, the state filed a petition to revoke probation.¹ After a contested hearing, the court determined that Gilmore had committed one of the four alleged violations of her probation—possession of drug paraphernalia. The court terminated as unsuccessful Gilmore’s probation in S0400CR201700183, and sentenced her to the presumptive, one-year term of imprisonment with credit for 284 days’ presentence incarceration in S0400CR201800213.

¶2 Counsel has filed a brief in compliance with *Anders v. California*, 386 U.S. 738 (1967), and *State v. Clark*, 196 Ariz. 530 (App. 1999), stating she has reviewed the record and has found “[n]o arguable question of law” to raise on appeal. Counsel has asked us to search the record for fundamental error. Gilmore has not filed a supplemental brief.

¶3 This court will uphold a trial court’s finding that a defendant violated probation unless that finding “is arbitrary or unsupported by any theory of evidence.” *State v. Moore*, 125 Ariz. 305, 306 (1980). Viewed in the light most favorable to upholding the trial court’s finding here, *State v. Tatlow*, 231 Ariz. 34, ¶ 15 (App. 2012), the evidence is sufficient to show that Gilmore violated the conditions of her probation by possessing drug paraphernalia. See A.R.S. § 13-3415. In January 2019, hours after Gilmore had been released from custody, officers in Globe conducted a traffic stop

¹The following month, the state filed another petition to revoke, which the trial court dismissed without prejudice pursuant to the state’s request.

STATE v. GILMORE
Decision of the Court

on a vehicle in which she was riding. They discovered “a small amount of marijuana” in the bed or cab of the vehicle and 3.2 pounds of methamphetamine underneath the hood. Gilmore was taken into custody; she exhibited signs of an overdose and admitted to jail staff that she had narcotics inside her vaginal cavity. The hospital where Gilmore was treated removed “a half-gram chunk of heroin” from her vagina; she admitted to a detective that she had removed the plastic bag containing the drugs. And, according to the detective, she also admitted to jail staff that she had placed drugs “wrapped in cellophane” into her vagina. We further conclude the sentence imposed is within the statutory range. *See* A.R.S. §§ 13-702(D), 13-3415.

¶4 Pursuant to our obligation under *Anders*, we have searched the record for error and have found none. We thus affirm the trial court’s order terminating Gilmore’s probation in S0400CR201700183 and revoking her probation in S0400CR201800213, and the sentence imposed.