

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Appellee,

v.

DARRELL CHARLES NORMAN,
Appellant.

No. 2 CA-CR 2019-0100
Filed October 7, 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NOT FOR PUBLICATION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 Pima County
No. CR20180781001
The Honorable Gus Aragon, Judge

AFFIRMED

COUNSEL

Law Offices of Thomas Jacobs, Tucson
By Thomas Jacobs
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 After a jury trial, Darrell Norman was convicted of two counts of aggravated driving under the influence of an intoxicant (DUI), while his license to drive was suspended, revoked, or restricted and DUI with a blood alcohol concentration (BAC) of 0.08 or more while his license was suspended, revoked, or restricted. The trial court sentenced Norman to enhanced, concurrent, presumptive, ten-year prison terms.

¶2 On appeal, counsel has filed a brief in compliance with *Anders v. California*, 386 U.S. 738 (1967), stating he has reviewed the record but found no “issue that is not frivolous.” Consistent with *State v. Clark*, 196 Ariz. 530, ¶ 30 (App. 1999), counsel has provided “a detailed factual and procedural history of the case, with citations to the record,” and has asked this court to review the record for fundamental or reversible error. In a supplemental pro se brief, Norman primarily challenges the jury instruction regarding the presumption of the receipt of notice of revocation of his driver license, and also asserts a related claim of prosecutorial misconduct and a claim his sentences were excessive.¹

¶3 Viewed in the light most favorable to sustaining the jury’s verdicts, *see State v. Tamplin*, 195 Ariz. 246, ¶ 2 (App. 1999), the evidence is sufficient to support the jury’s findings of guilt. *See* A.R.S. §§ 28-1381(A)(1), (2), 28-1383(A)(1). The evidence presented at trial showed that in February 2018, a state trooper conducted a traffic stop of the vehicle Norman was driving. Norman, who was on probation, exhibited signs of impairment

¹Near the end of his lengthy brief, Norman provides a list, without argument, of several “[o]ther issues this court should review for error,” which we do not consider. *See State v. Carver*, 160 Ariz. 167, 175 (1989) (“Failure to argue a claim usually constitutes abandonment and waiver of that claim.”).

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while driving and when the trooper administered roadside sobriety tests, was found to have a BAC of 0.189 within two hours of driving. Testimony of an employee of the Motor Vehicle Division established that Norman's license had been revoked on the date of the incident and that on January 9, 2018, written notice of the revocation had been mailed to him at the most recent address on file. *See* A.R.S. § 28-3318(E).²

¶4 Sufficient evidence also supports the trial court's finding that Norman had two historical prior felony convictions, specifically, for prior aggravated DUI offenses. His sentences are within the statutory range. *See* A.R.S. §§ 13-105(22)(a)(iv), 13-703(C), (J), 13-708, 28-1383(O)(1).

¶5 Pursuant to our obligation under *Anders*, we have searched the record for reversible error, including the issues Norman raises in his supplemental brief, and have found none. Accordingly, we affirm Norman's convictions and sentences.

² Section 28-3318(E) provides, "Compliance with the mailing provisions of this section constitutes notice of the . . . [license] revocation . . . for purposes of prosecution under § 28-1383," and further provides, "The state is not required to prove actual receipt of the notice or actual knowledge of the . . . revocation"