

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24

FILED BY CLERK

OCT 12 2010

COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

THE STATE OF ARIZONA,)	2 CA-CR 2010-0078
)	DEPARTMENT A
Appellee,)	
)	<u>MEMORANDUM DECISION</u>
v.)	Not for Publication
)	Rule 111, Rules of
PERLA LIZABETH CONTRERAS,)	the Supreme Court
)	
Appellant.)	
_____)	

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR20083830

Honorable Terry L. Chandler, Judge

AFFIRMED

Robert J. Hirsh, Pima County Public Defender
By Rebecca A. McLean

Tucson
Attorneys for Appellant

HOWARD, Chief Judge.

¶1 Appellant Perla Contreras was convicted after a jury trial of aggravated driving while under the influence (DUI) of an intoxicant and aggravated driving with an alcohol concentration (AC) of .08 or greater, with two prior DUI convictions, for offenses committed in December 2005 and July 2007 respectively. The trial court ordered her to serve a mandatory minimum prison term of four months and placed her on probation for five years from the date of her release.

¶2 Counsel has filed a brief in compliance with *Anders v. California*, 386 U.S. 738 (1967), and *State v. Leon*, 104 Ariz. 297, 451 P.2d 878 (1969), setting forth the relevant facts and procedural history in compliance with *State v. Clark*, 196 Ariz. 530, 2 P.3d 89 (App. 1999). Counsel has avowed that she “has been unable to find any arguably meritorious issue to raise on appeal,” requesting that this court review the record for fundamental error that was detrimental to Contreras. Contreras has not filed a supplemental brief.

¶3 We have reviewed the record and have found no error that can be characterized as fundamental, prejudicial error. The record contains substantial evidence establishing that Contreras drove her vehicle while under the influence of and impaired by alcohol and that a blood test taken at least three hours after she had driven established her AC was .181, which the state’s expert related back to within two hours of the test, estimating it would have been between .201 and .241, and most likely .211, when she was driving. The probationary period imposed was well within statutory limits, *see* A.R.S. § 13-902(B)(2), and the four-month period of commitment in the Arizona Department of Corrections is the mandatory minimum, *see* A.R.S. § 28-1383(A)(2), (D)(2). The sentence was lawful and imposed in a lawful manner. For these reasons, we affirm.

/s/ Joseph W. Howard
JOSEPH W. HOWARD, Chief Judge

CONCURRING:

/s/ J. William Brammer, Jr.
J. WILLIAM BRAMMER, JR., Presiding Judge

/s/ Philip G. Espinosa
PHILIP G. ESPINOSA, Judge