

**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**  
**MAY 22 2009**  
COURT OF APPEALS  
DIVISION TWO

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION TWO

THE STATE OF ARIZONA,	)	
	)	
	)	2 CA-CR 2008-0324
Appellee,	)	DEPARTMENT A
	)	
v.	)	<u>MEMORANDUM DECISION</u>
	)	Not for Publication
ERIKA IRENE OZUNA,	)	Rule 111, Rules of
	)	the Supreme Court
Appellant.	)	
_____	)	

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR-20080554

Honorable John S. Leonardo, Judge

AFFIRMED

Robert J. Hirsh, Pima County Public Defender  
By Michael J. Miller

Tucson  
Attorneys for Appellant

ESPINOSA, Judge.

¶1 Appellant Erika Ozuna was convicted of four counts of aggravated driving under the influence of an intoxicant (DUI) after an eight-person jury found her guilty of driving while impaired and with an alcohol concentration of .08 or more, both while her

driver's license was suspended or revoked and after she had been previously convicted of two DUI offenses within the past eighty-four months. The trial court suspended imposition of sentence and placed Ozuna on five years' probation, conditioned upon her first serving concurrent, six-month terms of imprisonment.

¶2 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), avowing he has reviewed the entire record and found no arguable issue to raise on appeal. In compliance with *Clark*, counsel has provided "a detailed factual and procedural history of the case with citations to the record, [so] this court can satisfy itself that counsel has in fact thoroughly reviewed the record." 196 Ariz. 530, ¶ 32, 2 P.3d at 97. Ozuna has not filed a supplemental brief.

¶3 Pursuant to our obligation under *Anders*, we have reviewed the record in its entirety and are satisfied it supports counsel's recitation of the facts. Viewed in the light most favorable to upholding the jury's verdicts, *see State v. Tamplin*, 195 Ariz. 246, ¶ 2, 986 P.2d 914, 914 (App. 1999), the evidence established that in June 2007, a Marana police officer had stopped Ozuna for speeding and an improper left turn when he observed her exhibit several cues of intoxication and arrested her for DUI. A blood test administered within two hours of the stop established Ozuna had an alcohol concentration of .26. Certified court records and certified records of the Arizona Department of Transportation Motor Vehicle Division (MVD) were admitted without objection and, along with the testimony of the MVD's custodian of records, established Ozuna had previously been convicted of DUI

offenses committed in November and December 2004 and was driving with a suspended license when she was arrested in June 2007.

¶4 Substantial evidence supported findings of all the elements necessary for Ozuna's convictions, *see* A.R.S. §§ 28-1381(A)(1), (2); 28-1383(A)(1), (2), and the terms and conditions of probation ordered by the trial court are within the contemplation of A.R.S. §§ 13-902(B)(2) and 28-1383(D)(2).<sup>1</sup> Moreover, in our examination of the record pursuant to *Anders*, we have found no reversible error and no arguable issue warranting further appellate review. *Anders*, 386 U.S. at 744. We therefore affirm Ozuna's convictions and probationary term imposed.

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PHILIP G. ESPINOSA, Judge

CONCURRING:

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JOHN PELANDER, Chief Judge

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JOSEPH W. HOWARD, Presiding Judge

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<sup>1</sup>These provisions have not changed materially since the date of Ozuna's offense. *See* 2007 Ariz. Sess. Laws, ch. 159, § 1 (§ 28-1383(D)(2)); 2007 Ariz. Sess. Laws, ch. 290, § 4 (§ 13-902(B)(2)).