

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

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THE STATE OF ARIZONA,  
*Appellee,*

*v.*

MICHAEL SHANE NORGORD,  
*Appellant.*

No. 2 CA-CR 2013-0262  
Filed February 7, 2014

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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NOT FOR PUBLICATION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); Ariz. R. Crim. P. 31.24.

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Appeal from the Superior Court in Cochise County

No. CR201100760

The Honorable Karl D. Elledge, Judge

**AFFIRMED**

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COUNSEL

Joel A. Larson, Cochise County Legal Defender  
By Joel A. Larson, Legal Defender, Bisbee  
*Counsel for Appellant*

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**MEMORANDUM DECISION**

Presiding Judge Vásquez authored the decision of the Court, in which Chief Judge Howard and Judge Miller concurred.

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V Á S Q U E Z, Presiding Judge:

¶1 Michael Norgord appeals from the trial court’s June 2013 order revoking his probation and sentencing him to five years in prison. 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), stating he has reviewed the record but found no “arguable issues to assert on direct appeal” and asking us to “review the record for any reversible error.” Norgord has not filed a supplemental brief. We affirm.

¶2 On appeal, we view the evidence in the light most favorable to upholding the trial court’s findings that Norgord had violated multiple conditions of his probation as alleged in the amended petition to revoke. *See State v. Vaughn*, 217 Ariz. 518, n.2, 176 P.3d 716, 717 n.2 (App. 2008). So viewed, the evidence established that, pursuant to a 2012 plea agreement, Norgord was convicted of scheme or artifice to defraud, a class two felony. *See* A.R.S. § 13-2310(A). In July 2012, the court suspended the imposition of sentence, placed Norgord on supervised probation for a period of seven years, and ordered him to pay \$51,402.39 in restitution.

¶3 In April and May 2013, the probation department filed a petition and an amended petition to revoke probation, alleging Norgord had violated multiple conditions of his probation. After a contested violation hearing held in May 2013, the trial court found a preponderance of the evidence established Norgord had violated all of the conditions as alleged in the petitions, as set forth below.

¶4 A probation violation must be established by a preponderance of the evidence, Ariz. R. Crim. P. 27.8(b)(3), and we

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will uphold a trial court's finding of a violation "unless it is arbitrary or unsupported by any theory of evidence," *State v. Moore*, 125 Ariz. 305, 306, 609 P.2d 575, 576 (1980). The evidence presented at the violation hearing established Norgord failed to: pay restitution on two occasions (condition 15); complete community service (condition 17); report to the probation department for a scheduled appointment (condition 6); seek, obtain, or maintain employment on two occasions (condition 14); obtain prior permission from the probation department before changing his residence (condition 7); report contact with law enforcement within seventy-two hours of the incident having occurred on three occasions (condition 3); maintain a crime-free lifestyle, to wit, by making a false report to law enforcement and by driving under the influence of a drug (condition 1); and, abide by the requirement he not possess or use controlled substances, specifically, morphine (condition 12). See A.R.S. §§ 13-2907.01, 28-1381.

¶5 The trial court acted within its discretion by revoking Norgord's probation and imposing sentence. See Ariz. R. Crim. P. 27.8(c)(2) (upon determination that violation of condition of probation occurred, court may "revoke, modify or continue probation [and i]f probation is revoked, the court shall pronounce sentence"). And, the sentence imposed upon the revocation of Norgord's probation was within the range authorized by law. See A.R.S. § 13-702(D).

¶6 In accordance with our obligation under *Anders*, we have reviewed the record for fundamental, reversible error and have found none. We thus affirm the trial court's findings of probation violations, its revocation of Norgord's probation, and the sentence imposed.