

NOTICE: NOT FOR PUBLICATION.  
UNDER ARIZ. R. SUP. CT. 111(c), THIS DECISION DOES NOT CREATE LEGAL PRECEDENT  
AND MAY NOT BE CITED EXCEPT AS AUTHORIZED.

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

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STATE OF ARIZONA, *Appellee*,

*v.*

DENNIS CHAMBERS, *Appellant*.

No. 1 CA-CR 13-0230  
FILED 11-14-2013

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Appeal from the Superior Court in Maricopa County  
No. CR2012-138878-001  
The Honorable Pamela S. Gates, Judge

**CONVICTION AFFIRMED; SENTENCE AFFIRMED AS MODIFIED**

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COUNSEL

Arizona Attorney General's Office, Phoenix  
By Michael T. O'Toole

*Counsel for Appellee*

Maricopa County Public Defender's Office, Phoenix  
By Christopher V. Johns

*Counsel for Appellant*

STATE v. CHAMBERS  
Decision of the Court

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**MEMORANDUM DECISION**

Chief Judge Diane M. Johnsen delivered the decision of the Court, in which Judge Jon W. Thompson and Judge Peter B. Swann joined.

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**J O H N S E N**, Chief Judge:

¶1 Dennis Chambers was convicted of third-degree burglary with two prior felony convictions. He was sentenced to 10 years in prison and was ordered to “submit to DNA testing for law enforcement identification purposes and pay the applicable fee for the cost of that testing.”

¶2 On appeal, Chambers does not dispute his convictions nor the term of incarceration the superior court imposed. He argues only that the court erred by ordering him to pay for DNA testing pursuant to Arizona Revised Statutes (“A.R.S.”) section 13-610 (2013).<sup>1</sup> The State confesses error, acknowledging that in *State v. Reyes*, 232 Ariz. 468, 472, ¶ 14, 307 P.3d 35, 39 (App. 2013), this court held that A.R.S. § 13-610 does not authorize the court to impose a DNA collection fee on a convicted defendant. We agree that pursuant to *Reyes*, which was issued after Chambers was sentenced, the court erred by imposing the collection fee. We therefore modify the judgment of conviction to omit the requirement that Chambers pay for the cost of DNA testing.

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<sup>1</sup> Absent material revision after the alleged offense, we cite a statute’s current version.

STATE v. CHAMBERS  
Decision of the Court

¶3 For the reasons stated, we affirm Chambers's conviction and sentence as modified.



Ruth A. Willingham · Clerk of the Court  
FILED: mjt