

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);



DIVISION ONE  
FILED: 10/15/2013  
RUTH A. WILLINGHAM,  
CLERK  
BY: mjt

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION ONE

STATE OF ARIZONA, ) No. 1 CA-CR 13-0471  
)  
Appellee, ) Department S  
)  
v. ) **MEMORANDUM DECISION**  
) (Not for Publication -  
STEVEN MICHAEL GIBSON, ) Rule 111, Rules of the  
) Arizona Supreme Court)  
Appellant. )  
\_\_\_\_\_ )

Appeal from the Superior Court in Yavapai County

Cause No. P1300CR201201190

The Honorable Cele Hancock, Judge

**CONVICTIONS AFFIRMED; SENTENCES AFFIRMED IN PART,  
REMANDED IN PART**

Thomas C. Horne, Attorney General Phoenix  
By Joseph T. Maziarz, Chief Counsel  
Criminal Appeals/Capital Litigation Section  
Eliza C. Ybarra, Assistant Attorney General  
Attorneys for Appellee

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Attorney for Appellant

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

¶1 Steven Michael Gibson was convicted of three counts of aggravated assault, Class 4 felonies, and one count of resisting arrest, a Class 6 felony. The court imposed consecutive one-

year sentences on each of the aggravated assault convictions and a concurrent one-year term of incarceration on the conviction for resisting arrest.

¶12 On appeal, Gibson does not dispute his convictions and does not contest the sentences imposed on the three aggravated assault convictions. He argues, however, that the superior court's imposition of a one-year term for resisting arrest is inconsistent with statements of the court during sentencing and in the judgment of conviction that it intended to impose a mitigated sentence on that conviction. Gibson points out that although the court stated it intended to impose a mitigated sentence, the one-year sentence it imposed is the presumptive sentence for a Class 6 felony. See A.R.S. § 13-702(D) (2013).<sup>1</sup>

¶13 The State confesses error, acknowledging that one year is the presumptive sentence for the Class 6 felony of resisting arrest, and that "[e]ither the trial court erred in calling the sentence 'mitigated' or it erred in sentencing [Gibson] to one year." For the same reason, we agree that the sentence should be remanded so that the superior court may clarify its intent.

¶14 For the reasons stated, we affirm the convictions and the sentences imposed for the three aggravated assault

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<sup>1</sup> Absent material revision after the relevant date, we cite a statute's current version.

convictions, but vacate and remand the sentence imposed for resisting arrest.

\_\_\_\_\_/s/\_\_\_\_\_  
DIANE M. JOHNSEN, Chief Judge

CONCURRING:

\_\_\_\_\_/S/\_\_\_\_\_  
PATRICIA A. OROZCO, Judge

\_\_\_\_\_/S/\_\_\_\_\_  
MAURICE PORTLEY, Judge