

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



DIVISION ONE
FILED: 11-30-2010
RUTH WILLINGHAM,
ACTING CLERK
BY: GH

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

CHRISTOPHER RYAN JOHNSON,) No. 1 CA-SA 10-0232
)
Petitioner,) DEPARTMENT D
)
v.) Maricopa County
) Superior Court
THE HONORABLE EARTHA K.) No. LC2010-000310-001 DT
WASHINGTON, Judge of the)
SUPERIOR COURT OF THE STATE OF)
ARIZONA, in and for the County)
of MARICOPA,)
)
Respondent Judge,)
) **DECISION ORDER**
STATE OF ARIZONA by and through)
the Phoenix Prosecutor's Office,)
)
)
Real Party in Interest.)
_____)

This special action was considered by the court at conference on November 24, 2010, with Presiding Judge Lawrence F. Winthrop, and Judges Patricia K. Norris and Patrick Irvine participating. The court considered the Petition for Special Action, the Response to Petition for Special Action, and the Petitioner's Reply Memorandum. The Arizona Supreme Court has previously held that a misdemeanor assault charge designated a domestic violence offense is not entitled to a jury trial. *State*

ex rel. McDougall v. Strohson (Cantrell), 190 Ariz. 120,945 P.2d 1251 (1997). Although the law regarding the right to a jury trial under the Arizona Constitution has evolved since that decision, see *Derendal v. Griffith*, 209 Ariz. 416, 104 P.3d 147 (2005) and *Fushek v. State*, 218 Ariz. 285, 183 P.3d 536 (2008), we cannot conclude that the Supreme Court's decision in *Strohson* is no longer applicable. Therefore,

IT IS ORDERED that the court of appeals, in the exercise of its discretion, accepts jurisdiction in this special action, but denies relief.

 /s/
PATRICK IRVINE, Judge