

NOTICE: NOT FOR PUBLICATION.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

STATE OF ARIZONA, *Appellee*,

v.

RICHARD LARRAGA-LIMON, *Appellant*.

No. 1 CA-CR 13-0006
FILED 11-12-2013

Appeal from the Superior Court in Maricopa County
No. CR2011-163561-002
The Honorable Steven P. Lynch, Judge *Pro Tempore*

CONVICTIONS AFFIRMED; SENTENCES AFFIRMED AS MODIFIED

COUNSEL

Arizona Attorney General's Office, Phoenix
By William Scott Simon

Counsel for Appellee

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

Counsel for Appellant

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MEMORANDUM DECISION

Chief Judge Diane M. Johnsen delivered the decision of the Court, in which Judge Randall M. Howe and Judge Andrew W. Gould joined.

J O H N S E N, Chief Judge:

¶1 Richard Larraga-Limon was convicted of two counts of misconduct involving weapons, one count of possession of marijuana and two counts of possession of drug paraphernalia. The superior court sentenced him to two terms of 5.5 years' incarceration on the two weapons convictions and three terms of 2.25 years' incarceration on the other three convictions, all to be served concurrently. At sentencing, the superior court ordered Larraga-Limon to "submit to DNA testing for law enforcement identification purposes and pay the applicable fee for the cost of that testing."

¶2 On appeal, Larraga-Limon does not dispute his convictions nor the terms 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).¹ 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 Larraga-Limon was sentenced, the court erred by imposing the collection fee. We therefore modify the judgment of conviction to omit the requirement that Larraga-Limon pay for the cost of DNA testing.

¹ Absent material revision after the alleged offense, we cite a statute's current version.

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¶3 For the reasons stated, we affirm Larraga-Limon's convictions and sentences as modified.



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