

NOTICE: NOT FOR OFFICIAL PUBLICATION.  
UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL  
AND MAY BE CITED ONLY AS AUTHORIZED BY RULE.

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

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STATE OF ARIZONA, *Appellee*,

*v.*

KRISTIN MORALES, *Appellant*.

No. 1 CA-CR 16-0653  
FILED 5-16-17

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Appeal from the Superior Court in Yuma County  
No. S1400CR201600125  
The Honorable Stephen J. Rouff, Judge

**AFFIRMED**

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COUNSEL

Arizona Attorney General's Office, Phoenix  
By Joseph T. Maziarz  
*Counsel for Appellee*

Law Offices of Neal W. Bassett, Phoenix  
By Neal W. Bassett  
*Counsel for Appellant*

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## MEMORANDUM DECISION

Judge Paul J. McMurdie delivered the decision of the Court, in which Presiding Judge Kent E. Cattani and Judge Jon W. Thompson joined.

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**M c M U R D I E, Judge:**

**¶1** Kristin Morales appeals her convictions for aggravated assault and resisting arrest, class 1 misdemeanors, and the resulting sentences. For the following reasons, we affirm.

### FACTS AND PROCEDURAL BACKGROUND

**¶2** On January 24, 2016, Deputy Sheriff J.M. was on patrol and dispatched to a domestic violence incident in Yuma County. Upon arrival, the deputy approached two children outside Morales's residence, one of which was clearly emotional. The child told the deputy what was going on in the home, so he approached the front door of Morales's home. The deputy heard a male from inside the residence yelling, and saw Morales sitting on a couch inside the home. The deputy knocked on the front door and made eye contact with Morales. She did not open for the deputy, so he proceeded to knock on the door harder. Morales then let the deputy in the home, but immediately pushed him up against a wall and the two began to struggle. The deputy told Morales to stop four different times, to which Morales responded "I do not stop," so the deputy "took her to the ground" to gain control. Morales punched and kicked the deputy multiple times in the legs and arms. Unable to gain control of Morales, the deputy stood up and un-holstered his Taser. Morales then stopped resisting.

**¶3** Because of the struggle, the deputy's right index finger was cut, and bled. Morales was arrested for disorderly conduct and later charged with one count of aggravated assault, in violation of, *inter alia*, Arizona Revised Statutes ("A.R.S.") sections 13-1204(A)(8)(a), -1204(D), and -1203, and resisting arrest under sections 13-2508(A)(1), -2508(B), and -2501.<sup>1</sup>

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<sup>1</sup> Absent material revision after the date of an alleged offense, we cite a statute's or rule's current version.

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¶4 Morales was convicted of aggravated assault and resisting arrest, both class 6 felonies. At sentencing, the superior court suspended Morales's sentences and placed her on supervised probation for a total of 18 months. The superior court designated both convictions as class 1 misdemeanors and ordered Morales to pay "any fees and assessments" as recommended in the presentence report. Morales timely appealed and we have jurisdiction pursuant to Article 6, Section 9 of the Arizona Constitution, and A.R.S. §§ 12-120.21(A)(1), 13-4031, and -4033(A)(1).

## DISCUSSION

### A. Sufficiency of the Evidence.

¶5 Morales argues there was insufficient evidence to support a conviction of aggravated assault, arguing the deputy's injury could not be traced to the incident, and the injury itself is not an impairment of a physical condition.

¶6 To determine the sufficiency of the evidence, we view the evidence, and inferences derived from the evidence, in the light most favorable to sustaining the verdict. *State v. Dann*, 205 Ariz. 557, 566, ¶ 23 (2003); *State v. Davila*, 189 Ariz. 44, 45 (App. 1997). "We review the sufficiency of evidence presented at trial only to determine if substantial evidence exists to support the jury verdict." *State v. Stroud*, 209 Ariz. 410, 411, ¶ 6 (2005). "Substantial evidence has been described as more than a mere scintilla of evidence; but it nonetheless must be evidence that reasonable persons could accept as sufficient to support a guilty verdict beyond a reasonable doubt." *Id.* at 411-12, ¶ 6 (internal quotations omitted).

¶7 To convict Morales of aggravated assault, the State was required to prove Morales knew or had reason to know that the deputy was a peace officer engaged in the execution of official duties, and intentionally, knowingly, or recklessly caused *any* physical injury to the officer. A.R.S.

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§ 13-1203(A), -1204(A)(8)(a) (emphasis added).<sup>2</sup> A physical injury is an impairment of physical condition. A.R.S. § 13-105(33).<sup>3</sup>

**¶8** The deputy was dispatched to a domestic violence incident at Morales's home. Morales testified at trial that she directed her children to call 9-1-1. Upon arrival, the deputy knocked on the door and pointed the light from his flashlight at his uniform to show Morales that he was a uniformed officer. The deputy made eye contact with Morales through the window, and Morales opened the door, unsurprised that an officer was at her door. Moreover, Morales stated "if you're taking anybody, you're taking me," which indicated Morales believed the person to be a police officer who was there to effectuate an arrest.<sup>4</sup>

**¶9** No one disputed that a physical altercation took place between Morales and the deputy. The deputy testified he did not have any cuts or injuries prior to this incident, was concerned for his safety, and was kicked and punched multiple times by Morales, resulting in a cut to his index finger. The State introduced evidence of blood outside the door where the altercation took place. While the cut the deputy sustained was minor, under § 13-1203(A) it constituted "any" physical injury. We reject Morales's claim of insufficient evidence to support her conviction for aggravated assault of a peace officer.

**B. Imposition of Fees and Assessments.**

**¶10** Morales also argues the superior court erred when it referred Morales to review the presentence report instead of explaining the fees and assessments associated with her sentences. Because Morales did not object at trial, we review for fundamental error. *State v. Henderson*, 210 Ariz. 561, 567, ¶ 19 (2005).

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<sup>2</sup> "Read naturally, the word 'any' has an expansive meaning, that is, 'one or some indiscriminately of whatever kind.'" *S.S. v. Stephanie H.*, 241 Ariz. 419, 423, ¶ 12 (App. 2017) (quoting *United States v. Gonzales*, 520 U.S. 1, 5 (1997)) (quoting Webster's Third New International Dictionary 97 (1976)).

<sup>3</sup> Impairment implicates "[t]he quality, state, or condition of being damaged [or] weakened." Black's Law Dictionary (10th ed. 2014).

<sup>4</sup> On appeal, Morales does not challenge the sufficiency of the evidence relating to her knowledge that the deputy was a peace officer.

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**¶11** Error is fundamental if it goes “to the foundation of the case,” “takes from the defendant a right essential to the defense,” and is “of such magnitude that the defendant could not possibly have received a fair trial.” *Henderson*, 210 Ariz. at 567, ¶ 19. The burden of persuasion falls on Morales to establish she was prejudiced thereby. *See id.* at ¶ 20.

**¶12** Morales argues the superior court erred by not explaining the terms of the fees and assessments at sentencing, instead merely referring her to the presentence report. *See Ariz. R. Crim. P. 26.10(b)(3)* (“The Court shall: . . . Explain to the defendant the terms of the . . . probation.”). While the superior court should have orally pronounced the fees and assessments imposed, Morales was on notice regarding the fees and assessments because she was provided a copy of the presentence report prior to sentencing. Likewise, the superior court provided a final, signed judgment listing all fees and assessments after sentencing, thereby notifying Morales of the specific amounts. The fees and assessments imposed were properly authorized for the crimes for which Morales was convicted, and the superior court’s imposition of those fees and assessments by reference to the presentence report did not constitute fundamental error. *See State v. Maddasion*, 24 Ariz. App. 492, 496 (1975) (technical errors in the application of Rule 26.10 do not require resentencing unless prejudice is shown).

## CONCLUSION

**¶13** Accordingly, we affirm.



AMY M. WOOD • Clerk of the Court  
FILED: JT