

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL  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.*

LIONEL LONIAN, *Appellant*.

No. 1 CA-CR 20-0407

FILED 6-8-2021

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Appeal from the Superior Court in Mohave County

No. S8015CR201801853

The Honorable Billy K. Sipe, Judge *Pro Tempore*

**AFFIRMED**

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COUNSEL

Arizona Attorney General's Office, Phoenix  
By Gracynthia Claw  
*Counsel for Appellee*

Mohave County Legal Advocate, Kingman  
By Jill L. Evans  
*Counsel for Appellant*

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**MEMORANDUM DECISION**

Presiding Judge Jennifer M. Perkins delivered the decision of the Court, in which Judge Randall M. Howe and Judge Maria Elena Cruz joined.

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**P E R K I N S**, Judge:

¶1 Lionel Lonian appeals his conviction of resisting arrest. For the following reasons, we affirm.

**FACTUAL AND PROCEDURAL BACKGROUND**

¶2 We view the facts in the light most favorable to sustaining the verdict. *State v. Payne*, 233 Ariz. 484, 509, ¶ 93 (2013). Sergeant Nyquist responded to a complaint about noise emanating from Lonian’s residence in Fort Mohave. Upon arrival, Nyquist heard “extremely loud” music and observed Lonian’s semi-truck parked outside his house. Nyquist parked in Lonian’s driveway and then talked with him in his open garage. Nyquist had “past experiences with Mr. Lonian,” without success “in getting him to comply with the law.” Because of these past experiences and what he observed, Nyquist immediately opted to arrest Lonian.

¶3 Nyquist tried to handcuff Lonian multiple times, but Lonian broke free and questioned the basis for his arrest. Lonian retreated, prompting Nyquist to tase him. Once the taser completed its five-second cycle, Lonian stood up. The taser device then stopped functioning, leading to a scuffle near Lonian’s interior garage door. Lonian weaved and shoved Nyquist away, yelling “Get off of me!” The two men continued the struggle as Nyquist called for backup. Deputy Schiller eventually arrived, and the officers handcuffed Lonian.

¶4 In November 2018, a Grand Jury indicted Lonian for one count of first-degree escape, one count of resisting arrest, and two counts of aggravated assault.

¶5 Nyquist testified that trying to handcuff Lonian felt like a ten-minute wrestling match. When Nyquist first tried cuffing Lonian, Lonian ripped his hands from Nyquist’s grasp. Nyquist also opined that Lonian actively resisted because he repeatedly tried to stand up, leave, and force Nyquist off him. Schiller also testified that when he arrived, Lonian began

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passively resisting by rolling onto his stomach and locking his hands together.

¶6 The jury found Lonian not guilty of the escape and aggravated assault charges but found him guilty of resisting arrest. The superior court sentenced Lonian to three months of imprisonment, followed by one month of community supervision. The court credited Lonian with two days of pre-incarceration credit. Lonian timely appealed and we have jurisdiction under Article 6, Section 9, of the Arizona Constitution and A.R.S. §§ 13-4031 and -4033(A).

**DISCUSSION**

¶7 Lonian argues the State presented insufficient evidence to support his conviction. We review sufficiency of the evidence *de novo* and resolve all inferences against Lonian. *See State v. Burns*, 237 Ariz. 1, 20, ¶ 72 (2015). Our sufficiency of the evidence analysis hinges on whether substantial evidence exists to support the verdict. *State v. Stroud*, 209 Ariz. 410, 411, ¶ 6 (2005). Substantial evidence is evidence that “reasonable persons could accept as sufficient to support a guilty verdict beyond a reasonable doubt.” *Id.* at 411-12, ¶ 6 (citation omitted).

¶8 To convict Lonian, the State needed to prove that he (1) intentionally prevented or attempted to prevent, (2) a person reasonably known to him to be a peace officer, acting under color of official authority, (3) from effecting an arrest, (4) by using or threatening to use physical force against the officer. *See* A.R.S. § 13-2508(A)(1). Physical force includes “force used upon or directed toward the body of another person.” *See* A.R.S. § 13-105(32).

¶9 Lonian argues the State failed to prove the physical force element because he committed no violent act of force “akin to an assault,” such as hitting or kicking. But the resisting-arrest statute only requires proof of minimal physical force. *See, e.g., State v. Sorkhabi*, 202 Ariz. 450, 452, ¶ 10 (App. 2002) (struggling with police falls within conduct criminalized in § 13-2508(A)(1)). Any physical force directed toward an officer will suffice; neither violent nor assaultive force is necessary. *See State v. Lee*, 217 Ariz. 514, 515-16, ¶¶ 3-7 (App. 2008) (minor scuffling that prevents police from gaining control over an arrestee satisfies § 13-2508(A)(1)).

¶10 Lonian also contends his conduct amounted only to passive resistance, which involves nonviolent acts to prevent arrest. *See* A.R.S. § 13-2508(C). He cites officer testimony describing some of his conduct as passive resistance and his rolling onto his stomach to hide his hands. As

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Lonian points out, the State only charged him with resisting arrest under § 13-2508(A)(1). He essentially asserts the jurors reached untenable conclusions from the State's evidence. But evidence is not rendered insufficient simply because reasonable jurors could draw different conclusions from it. *State v. Toney*, 113 Ariz. 404, 408 (1976).

¶11 We therefore turn to whether the record contains substantial evidence to prove the elements of § 13-2508(A)(1). Nyquist testified that he interacted with Lonian before and previously explained the illegality of parking a commercial vehicle in a neighborhood. And Nyquist parked his police vehicle in Lonian's driveway before trying to arrest him. When Nyquist tried handcuffing Lonian, he jerked his wrist away and broke free from Nyquist's grasp. Even after being tased, Lonian continued to evade Nyquist's handcuffs. Lonian wrestled with Nyquist for a few minutes, while ignoring multiple requests to stop resisting. He shoved Nyquist away and yelled "Get off of me!" And Lonian struggled to keep Nyquist from controlling his arms and wrists to effect the arrest. A reasonable juror could thus conclude: (1) Lonian knew Nyquist was a police officer; (2) he knew Nyquist was arresting him; and (3) he intentionally used physical force to prevent Nyquist from arresting him. Sufficient evidence supports Lonian's conviction.

CONCLUSION

¶12 We affirm.



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