

POLICE OFFICER NEED NOT FORMALLY ANNOUNCE A PERSON IS UNDER ARREST FOR THE PERSON TO BE CONVICTED OF RESISTING ARREST

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State v. Barker

Ct. Appeals, Div. One, April 21, 2011

Authored by the [JSH Appellate Team](#)

An officer approached Defendant Barker and a woman arguing in the roadway. The officer smelled alcohol on Barker's breath, and believed he had probable cause to arrest Barker for disorderly conduct. After Barker refused to turn around and be placed in handcuffs, the officer reached with one hand to get Barker to turn around. Barker pulled away. The officer attempted to restrain Barker again, but Barker broke free. Eventually another officer arrived and tried to tase Barker. A third officer arrived and Barker was finally handcuffed. Barker was charged with multiple felonies, including one count of resisting arrest. He was ultimately convicted of resisting arrest. He appealed.

The court of appeals affirmed. Under A.R.S. § 13-2508(A), a person resists arrest by using physical force to attempt to prevent a police officer from effecting an arrest. Effecting an arrest means making or bringing about an arrest. Barker argued the officer did not "effect an arrest" because he did not formally announce that Barker was under arrest before attempting to restrain him. But no Arizona authority requires police officers to formally announce that a person is "under arrest" before he can be convicted of resisting arrest. The court also rejected Barker's argument that the officer's initial plan to merely detain Barker for questioning precluded the officers from deciding shortly thereafter to effect Barker's arrest. A reasonable jury could find the officers' actions sufficient to "effect an arrest."