



# ROLL CALL REPORTER

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## What Is and What Is Not Resisting Arrest

**QUESTION:** **Can a defendant be guilty of resisting arrest when the arresting officer doesn't sustain any injury?**

**ANSWER:** **Yes. Although resistance by force is an element of the crime, the level of force required is not high. Further, the level of resisting force is not measured in any way by whether or not the arresting officer was injured.**

**CASE:** ***Susan DeGrange v. State of Maryland*, Court of Special Appeals of Maryland  
Decided February 3, 2015**

On June 24, 2013, Robert Wormley went to the Frederick County Sheriff's Office to report that Susan DeGrange was present at his residence in violation of a March 2013 peace order, which prohibited her from being on the property. Deputy Timothy Grove was dispatched to Wormley's residence for the trespassing call. When he arrived, Deputy Grove found DeGrange standing outside of the residence, accompanied by a pit bull. Deputy Grove asked DeGrange to secure the dog so he could arrest her for violating a peace order. Instead, DeGrange took the dog into the house and locked the door behind her. She ignored the deputy's continued requests for her to come outside and speak with him.

Deputy Grove then contacted Wormley, who was still at the Sheriff's Office, and asked him to come to the house and open the front door with his key. Wormley complied with the request. Wormley, Deputy Grove, and Sergeant Gary Kline, who had served the peace order on DeGrange in March 2013, then entered the residence. The officers identified themselves and called out to DeGrange several times, but she did not respond. A search of the house revealed DeGrange sitting on a bed in an upstairs bedroom, the pit bull at her feet.

Wormley secured the dog, and Deputy Grove repeatedly asked DeGrange to stand, advising she was in violation of a peace order, and under arrest. She refused, so Deputy Grove placed his hands on her arms to stand her up and place her in handcuffs. She pulled her arms away to keep from being taken off the bed. Deputy Grove then pulled one of DeGrange's arms behind her back, while Sergeant Kline attempted to grab her other arm. In the process, DeGrange fell face forward onto the bed. She then began to fight and struggle with the officers, attempting to pull her arms and hands under her body. Deputy Grove ordered DeGrange to put her hands behind her back, but she refused, kicking and yelling. Sergeant Kline, using, in his words, "the least amount of force possible", had to wrestle DeGrange's arm from behind her back so she could be handcuffed. DeGrange did not injure either officer in the struggle. Once handcuffed, DeGrange was removed from the residence and taken to central booking for processing.

DeGrange was charged with failure to comply with a peace order and resisting arrest. At trial, she denied she had struggled with the officers and claimed that they had "manhandled" her. She was

convicted in a trial by jury and sentenced to 18 months in prison, with all but 30 days suspended. DeGrange appealed.

On appeal, as to resisting arrest, DeGrange argued that only “forceful offensive action” against the arresting officers could sustain the charge. Because both officers testified that neither was injured in making the arrest, they were not in danger from DeGrange, and she could not be said to have made aggressive or forceful actions toward them. The Court of Special Appeals of Maryland rejected DeGrange’s arguments. The court once again set forth the elements of resisting arrest: (1) a law enforcement officer arrested or attempted to arrest the defendant; (2) the arrest was lawful, and; 3) the defendant refused to submit to the arrest and resisted the arrest by force. In this case, the evidence of DeGrange’s physical resistance, including pulling away, fighting, and struggling in an effort to keep her arms away from the officers, was more than enough for the jury to convict and for the appeals court to sustain her conviction.

As to violation of the peace order charge, DeGrange argued that the State had failed to prove that she had violated each specific provision of the peace order statute. The Court of Special Appeals rejected that argument finding that the statute creates a single charge, and that charge was violating a peace order. Pursuant to the statute, a person can violate the statute in a number of ways, including by contacting the person, harassing the person, or entering the person’s residence. To violate the law, however, one doesn’t need to violate all of the statute’s provisions, just one of them.

**NOTE:** Maryland’s appellate courts have held that *both* a refusal to submit to a lawful arrest *and* resistance by force or threat of force are necessary to commit the crime of resisting arrest. Although the level of resisting force is not high, mere flight is not enough. A person “going limp”, on the other hand, does constitute resistance by force.

*By John F. Breads, Jr., Director of Legal Services, Local Government Insurance Trust*

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