

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED
EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);
Ariz. R. Crim. P. 31.24

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE



DIVISION ONE
FILED: 10/17/2013
RUTH A. WILLINGHAM,
CLERK
BY: GH

STATE OF ARIZONA,) 1 CA-CR 12-0569-PR
)
Respondent,) DEPARTMENT C
)
v.) MEMORANDUM DECISION
)
JOSEPH LEE CONLEY,) (Not for Publication -
) Rule 111, Rules of the
Petitioner.) Arizona Supreme Court)
)
_____)

Petition for Review from the Superior Court of Maricopa County

Cause No. CR2004-035015-001

The Honorable David K. Udall, Judge

REVIEW GRANTED; RELIEF DENIED

Joseph Lee Conley
Pro Se

Tucson

PER CURIAM

¶1 A jury convicted petitioner Joseph Lee Conley of first degree murder and two counts of burglary. The superior court sentenced Conley to natural life for murder and concurrent terms of seven years' imprisonment for both counts of burglary. This court affirmed his convictions and sentences on direct appeal in

State v. Conley, 1 CA-CR 07-0542 (Ariz. App. Jan. 2, 2009) (mem. dec.). Conley now seeks review of the summary dismissal of his successive notice of post-conviction relief pursuant to Arizona Rule of Criminal Procedure 32.9(c). This court reviews the summary dismissal of a notice of post-conviction for abuse of discretion. *State v. Watton*, 164 Ariz. 323, 325, 793 P.2d 80, 82 (1990).

¶2 In his petition for review, Conley argues he is entitled to be resentenced to less than natural life pursuant to *Miller v. Alabama*, 132 S. Ct. 2455 (2012). Conley argues *Miller* constitutes a significant change in the law and prohibits the imposition of natural life for juvenile offenders. Conley committed the offenses just before his eighteenth birthday. *Miller* did not ban the imposition of sentences to life without the possibility of parole for juveniles. Rather, *Miller* held *mandatory* sentences of life-without-parole for juvenile offenders violated the Eighth Amendment. *Id.* at 2464. Because Conley's sentence to natural life was not mandatory, he has failed to state a colorable claim for relief.

¶3 For these reasons, this court grants review of Conley's petition for review and denies relief.

/S/
RANDALL M. HOWE, Presiding Judge

/S/
PATRICIA A. OROZCO, Judge

/S/
SAMUEL A. THUMMA, Judge