

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL  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

*v.*

MICHAEL L. STEVENSON, *Petitioner*.

No. 1 CA-CR 15-0208 PRPC  
FILED 7-6-2017

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Petition for Review from the Superior Court in Maricopa County  
No. CR2012-135598-001  
The Honorable Jeanne M. Garcia, Judge

**REVIEW GRANTED AND RELIEF DENIED**

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COUNSEL

Maricopa County Attorney's Office, Phoenix  
By Karen Kemper  
*Counsel for Respondent*

Michael L. Stevenson, San Luis  
*Petitioner*

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**MEMORANDUM DECISION**

Presiding Judge Randall M. Howe delivered the decision of the Court, in  
which Judge Lawrence F. Winthrop and Judge Jon W. Thompson joined.

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STATE v. STEVENSON  
Decision of the Court

HOWE, Judge:

¶1 Michael L. Stevenson petitions this Court for review from the summary dismissal of his petition for post-conviction relief. We have considered the petition for review and, for the reasons stated, grant review but deny relief.

¶2 A jury convicted Stevenson of possession of narcotic drugs for sale and possession of drug paraphernalia. The trial court sentenced him as a repetitive offender to a presumptive 9.25-year prison term on the possession of narcotic drugs for sale conviction and placed him on three years' probation for the possession of drug paraphernalia conviction. This Court affirmed Stevenson's convictions and dispositions. *State v. Stevenson*, 1 CA-CR 13-0397 (Ariz. App. Jan. 21, 2014) (mem. decision).

¶3 Stevenson thereafter timely petitioned for post-conviction relief. Stevenson's appointed counsel then notified the trial court that counsel was unable to find a meritorious issue to raise in a Rule 32 proceeding. Stevenson filed a *pro se* petition for post-conviction relief, alleging claims of ineffective assistance of counsel. The trial court summarily dismissed the petition, concluding that Stevenson failed to state a colorable claim of ineffective assistance of counsel.

¶4 In his petition for review, Stevenson argues that the trial court erred by summarily denying relief on his claim that his counsel was ineffective in failing to discuss a plea offer with him. We review the denial of post-conviction relief for an abuse of discretion. *State v. Bennett*, 213 Ariz. 562, 566 ¶ 17 (2006).

¶5 Summary dismissal of a petition for post-conviction relief is appropriate "[i]f the court . . . determines that no . . . claim presents a material issue of fact or law which would entitle the defendant to relief under this rule and that no purpose would be served by any further proceedings." Ariz. R. Crim. P. 32.6(c). To obtain an evidentiary hearing, a petitioner must make a colorable claim showing that the allegations, if true, would have changed the outcome. *State v. Krum*, 183 Ariz. 288, 292 (1995). To state a colorable claim of ineffective assistance of counsel, a defendant must show both that counsel's performance fell below objectively reasonable standards and that the deficient performance prejudiced him. *Strickland v. Washington*, 466 U.S. 668, 687 (1984). In determining whether a claim is colorable, the allegations are viewed in light of the entire record. *State v. Lemieux*, 137 Ariz. 143, 146 (App. 1983).

STATE v. STEVENSON  
Decision of the Court

¶6 Stevenson alleged in his petition for post-conviction relief that his counsel did not discuss the terms of the plea offer with him. Even accepting this allegation as true, the record reflects that a *Donald*<sup>1</sup> hearing was held at which Stevenson was specifically informed in open court of the charges and potential punishment if he proceeded to trial. The State further advised Stevenson that the plea offer was for a five-year prison term. In response to the trial court's inquiry about his interest in the offer, Stevenson acknowledged that he understood the offer and did not want to accept it. Stevenson included no allegation in the affidavit he submitted in support of the petition for post-conviction relief of any information he lacked that would have caused him to accept the plea offer and forego his right to trial. Absent an allegation of what information he lacked about the plea offer or what questions he had for counsel concerning it, the trial court did not abuse its discretion by ruling that Stevenson failed to make a colorable showing of prejudice based on his counsel's alleged failure to discuss the plea offer with him.

¶7 Accordingly, although we grant review, we deny relief.



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

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<sup>1</sup> *State v. Donald*, 198 Ariz. 406 (App. 2000).