

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL  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

RICHARD LOUIS GRAY, *Petitioner*.

No. 1 CA-CR 15-0211 PRPC  
FILED 1-31-2017

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Petition for Review from the Superior Court in Maricopa County  
No. CR2012-152514-001 DT  
The Honorable Pamela S. Gates, Judge

**REVIEW GRANTED; RELIEF DENIED**

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COUNSEL

Maricopa County Attorney's Office, Phoenix  
By Diane Meloche  
*Counsel for Respondent*

Richard Louis Gray, Florence  
*Petitioner*

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**MEMORANDUM DECISION**

Judge James P. Beene delivered the decision of the Court, in which Presiding Judge Diane M. Johnsen and Judge Margaret H. Downie joined.

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**B E E N E**, Judge:

¶1 Petitioner Richard Louis Gray petitions this court for review from the summary dismissal of his pro se petition for post-conviction relief of-right. Gray pled guilty to molestation of a child, attempted sexual conduct with a minor and public sexual indecency. The superior court sentenced him to ten years' imprisonment for molestation of a child and placed him on lifetime probation for the remaining counts, all as stipulated in the plea agreement.

¶2 Gray argues that a confrontation call orchestrated by investigators and Gray's subsequent interview with investigators were unconstitutional for a variety of reasons; the State failed to disclose information and materials regarding the confrontation call and that these deficiencies rendered the resulting grand jury proceedings and the indictment itself defective. Gray further argues his trial counsel was ineffective for failing to raise these issues below and that his post-conviction counsel was ineffective for failing to discuss these issues with Gray and present them in a petition for post-conviction relief.

¶3 We deny relief. A plea agreement waives all non-jurisdictional defenses, errors and defects which occurred prior to the plea. *State v. Moreno*, 134 Ariz. 199, 200, 655 P.2d 23, 24 (App. 1982). The waiver of non-jurisdictional defects includes deprivations of constitutional rights, *Tollett v. Henderson*, 411 U.S. 258, 267 (1973), and all claims of ineffective assistance of counsel not directly related to the entry of the plea. *State v. Quick*, 177 Ariz. 314, 316, 868 P.2d 327, 329 (App. 1993). Gray's claims of ineffective assistance of his trial counsel are not directly related to the entry of his pleas. Further, because Gray waived these issues when he pled guilty, his post-conviction relief counsel could not raise them in a post-conviction relief proceeding.

¶4 While the petition for review presents a number of additional issues, we do not address those issues because Gray did not raise them in

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the petition for post-conviction relief he filed below. *See State v. Ramirez*, 126 Ariz. 464, 468, 616 P.2d 924, 928 (App. 1980); *State v. Wagstaff*, 161 Ariz. 66, 71, 775 P.2d 1130, 1135 (App. 1988); *State v. Bortz*, 169 Ariz. 575, 577-78, 821 P.2d 236, 238-39 (App. 1991); Ariz. R. Crim. P. 32.9(c)(1)(ii). *See also State v. Swoopes*, 216 Ariz. 390, 403, ¶ 41, 166 P.3d 945, 958 (App. 2007); *State v. Smith*, 184 Ariz. 456, 459, 910 P.2d 1, 4 (1996) (both holding there is no review for fundamental error in a post-conviction relief proceeding). Further, we do not consider issues Gray first raised in his reply brief. *See State v. Watson*, 198 Ariz. 48, 51, ¶ 4, 6 P.3d 752, 755 (App. 2000).

¶5 We grant review but deny relief.



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