

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL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

STATE OF ARIZONA, *Respondent*,

v.

THOMAS JOSEPH BERRY, *Petitioner*.

No. 1 CA-CR 22-0109 PRPC
FILED 12-15-2022

Petition for Review from the Superior Court in Maricopa County
No. CR2016-148001-001
The Honorable Ronda R. Fisk, Judge

REVIEW GRANTED; RELIEF DENIED

COUNSEL

Maricopa County Attorney's Office, Phoenix
By Krista Wood
Counsel for Respondent

Law Office of Stephen M. Johnson, Inc., Phoenix
By Stephen M. Johnson
Counsel for Petitioner

STATE v. BERRY
Decision of the Court

MEMORANDUM DECISION

Presiding Judge David D. Weinzweig, Judge Randall M. Howe, and Judge D. Steven Williams delivered the decision of the court.

PER CURIUM:

¶1 Petitioner Thomas Joseph Berry seeks review of the superior court's order denying his petition for post-conviction relief, filed pursuant to Arizona Rule of Criminal Procedure 32.1. This is petitioner's first petition.

¶2 Absent an abuse of discretion or error of law, this court will not disturb a superior court's ruling on a petition for post-conviction relief. *State v. Gutierrez*, 229 Ariz. 573, 577, ¶ 19, 278 P.3d 1276, 1280 (2012). It is petitioner's burden to show that the superior court abused its discretion by denying the petition for post-conviction relief. *See State v. Poblete*, 227 Ariz. 537, ¶ 1, 260 P.3d 1102, 1103 (App. 2011) (petitioner has burden of establishing abuse of discretion on review).

¶3 We have reviewed the record in this matter, the superior court's order denying the petition for post-conviction relief, and the petition for review. The petitioner has failed to show an abuse of discretion.

¶4 For the foregoing reasons, this court grants review but denies relief.



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