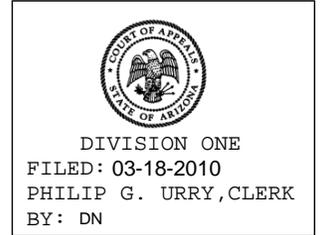


NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED  
EXCEPT AS AUTHORIZED BY APPLICABLE RULES.  
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);  
Ariz. R. Crim. P. 31.24

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION ONE



STATE OF ARIZONA, ) 1 CA-CR 08-0651  
)  
Appellee, ) DEPARTMENT B  
)  
v. ) **MEMORANDUM DECISION**  
) (Not for Publication - Rule  
CHRISTOPHER MICHAEL REGENOLD, ) 111, Rules of the Arizona  
) Supreme Court)  
Appellant. )  
)

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Appeal from the Superior Court in Maricopa County

Cause No. CR 2005-135187-001 DT

The Honorable Jaime B. Holguin, Judge Pro Tempore

**APPEAL DISMISSED**

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Terry Goddard, Attorney General Phoenix  
By Kent E. Cattani, Chief Counsel  
Criminal Appeals/Capital Litigation Section  
and Aaron J. Moskowitz, Assistant Attorney General  
Attorneys for Appellee

James J. Haas, Maricopa County Public Defender Phoenix  
By Tennie B. Martin, Deputy Public Defender  
Attorneys for Appellant

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**N O R R I S**, Judge

¶1 Christopher Michael Regenold appeals from his disposition sentence entered after the superior court revoked his probation. He argues his sentence was illegal because he

pled to luring a minor for sexual exploitation but was sentenced in accordance with luring a minor under 15 years of age, when he was actually interacting with an undercover detective. For the following reasons, we lack jurisdiction to address his argument and therefore dismiss this appeal.

#### **FACTS AND PROCEDURAL BACKGROUND**

¶2 In May 2006, Regenold pled guilty to one count of luring a minor for sexual exploitation, a class three felony, as a result of offering or soliciting sexual conduct via online conversations with an undercover detective impersonating a 14-year-old girl. In July 2006, the superior court suspended imposition of sentence and placed Regenold on lifetime probation. In September 2007, Regenold's probation officer filed a petition to revoke probation and in November 2007, Regenold admitted to violating one term of his probation. The superior court reinstated him on intensive probation. Later that month, Regenold's probation officer filed another petition to revoke probation. This matter was continued twice on grounds related to Regenold's argument the sentencing range in his plea agreement was illegal, and he should be sentenced according to Arizona Revised Statutes ("A.R.S.") section 13-702(A) (Supp.

2005) (A.R.S. § 13-702(A) is now A.R.S. § 13-702(D) (Supp. 2009)).<sup>1</sup>

¶13 In June 2008 the court held a violation hearing, and after his probation officer testified Regenold had "refused to do any of the probation [he was] asked [] to do," the court found Regenold had violated multiple terms of his probation. At a disposition hearing on July 14, 2008, Regenold was sentenced, in accordance with his plea agreement, to a mitigated sentence of 6.5 years in the Department of Corrections. See A.R.S. § 13-604.01(I) (Supp. 2005) (A.R.S. § 13-604.01 is now A.R.S. § 13-705 (Supp. 2009)).

#### DISCUSSION

¶14 The State correctly argues this court lacks appellate jurisdiction to hear Regenold's challenge to a sentence imposed pursuant to a plea agreement. Because appellate jurisdiction is

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<sup>1</sup>The court granted the first continuance in December 2007 because Regenold stated he had filed a petition for post-conviction relief under Arizona Rule of Criminal Procedure 32. The record reflects Regenold filed a Rule 32 petition in October 2007 (albeit titling it a motion to "Allow a Delayed Rule 32 Petition"), and despite having counsel, filed a pro se "Notice of Post-Conviction Relief" in November 2007 asking to be appointed new counsel. The court acknowledged receipt of the November notice, appointed the public defender, and ordered a schedule for Rule 32 proceedings. Regenold has since filed multiple motions to extend the time to file his petition for post-conviction relief but has yet to do so.

The court granted the second continuance in February 2008 to allow Regenold to file a special action petition so the court and the parties could "get some guidance from the Court of Appeals" on Regenold's allegedly illegal sentence. Regenold chose not to file a special action petition.

a question of law, our review is de novo. *State v. Flores*, 218 Ariz. 407, 410, ¶ 6, 188 P.3d 706, 709 (App. 2008).

¶15 "In noncapital cases a defendant may not appeal from a judgment or sentence that is entered pursuant to a plea agreement." A.R.S. § 13-4033(B) (Supp. 2009);<sup>2</sup> see also *State v. Celaya*, 213 Ariz. 282, 282-83, ¶ 3, 141 P.3d 762, 762-63 (App. 2006); *State v. Jimenez*, 188 Ariz. 342, 344-45, 935 P.2d 920, 922-23 (App. 1996). Further, according to Arizona Rule of Criminal Procedure 17.1(e):

By pleading guilty or no contest in a noncapital case, a defendant waives the right to have the appellate courts review the proceedings by way of direct appeal, and may seek review only by filing a petition for post-conviction relief pursuant to Rule 32 and, if denied, a petition for review.

¶16 Here, Regenold's signed and initialed plea agreement stated his crime "carries a presumptive sentence of 10 years; a minimum sentence of 5 years; and a maximum sentence of 15 years." It stated: "By entering this agreement, the Defendant further waives and gives up the right to appeal." Through this appeal, Regenold is attempting to challenge the legality of the sentence imposed pursuant to his plea agreement. We do not have

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<sup>2</sup>Although certain statutes cited in this decision were amended after the date of Regenold's offense, the revisions are immaterial. Thus, we cite to the current versions of these statutes.

appellate jurisdiction, however, to address this issue. See *Celaya*, 213 Ariz. at 283, ¶ 7, 141 P.3d at 763.

**CONCLUSION**

¶7 For the foregoing reasons, we dismiss this appeal for lack of appellate jurisdiction.

/s/

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PATRICIA K. NORRIS, Presiding Judge

CONCURRING:

/s/

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DANIEL A. BARKER, Judge

/s/

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PETER B. SWANN, Judge