

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Respondent,

v.

JOSEPH CLANCY ARMSTRONG,
Petitioner.

No. 2 CA-CR 2016-0025-PR
Filed June 15, 2016

THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
NOT FOR PUBLICATION
See Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Crim. P. 31.24.

Petition for Review from the Superior Court in Graham County
No. CR2009456
The Honorable Michael D. Peterson, Judge

REVIEW GRANTED; RELIEF DENIED

Joseph C. Armstrong, Florence
In Propria Persona

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MEMORANDUM DECISION

Presiding Judge Howard authored the decision of the Court, in which Judge Espinosa and Judge Staring concurred.

H O W A R D, Presiding Judge:

¶1 Petitioner Joseph Clancy Armstrong seeks review of the trial court’s summary denial of his untimely petition for post-conviction relief, filed pursuant to Rule 32, Ariz. R. Crim. P. For the following reasons, we grant review, but we deny relief.

¶2 Pursuant to a plea agreement, Armstrong was convicted in 2010 of two counts of attempted sexual exploitation of a minor, dangerous crimes against children in the second degree, committed on or about October 28, 2009. The trial court sentenced him to a presumptive, ten-year prison term on one count, to be followed by a lifetime term of probation on the second count. In June 2015, Armstrong filed a motion for “permission to file a delayed/untimely” post-conviction relief proceeding, asking, without explanation, to allege claims pursuant to Rule 32.1(a), (c), (e), and (f). In acknowledging receipt of Armstrong’s request, the court stated, “Defendant Armstrong needs to set forth his claims in order for the Court to understand why he needs to file a belated Rule 32 petition.” Armstrong responded by filing a “petition for review” (sic) alleging the court’s imposition of lifetime probation had been illegal. The court appears to have construed Armstrong’s petition as one for post-conviction relief and summarily denied it in a detailed ruling that fully addressed Armstrong’s claim. This petition for review followed.

¶3 On review, Armstrong merely repeats the arguments made in his petition below. We review a summary denial of post-conviction relief for an abuse of discretion. *State v. Bennett*, 213 Ariz. 562, ¶ 17, 146 P.3d 63, 67 (2006). We find none here.

¶4 The trial court clearly identified, thoroughly addressed, and correctly resolved the merits of Armstrong’s claim. *See* A.R.S.

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§ 13-902(E); *State v. Peek*, 219 Ariz. 182, ¶ 10, 195 P.3d 641, 643 (2008) (noting availability of lifetime probation for sex offenses, including attempt offenses, committed after effective date of 1997 amendment to § 13-902). Moreover, the court ruled in a manner sufficient to permit this or any other court to conduct a meaningful review. *See State v. Whipple*, 177 Ariz. 272, 274, 866 P.2d 1358, 1360 (App. 1993). Accordingly, no purpose would be served by repeating the court's analysis, *see id.*, and we instead adopt it. We add only that Armstrong's claim of an illegal sentence was also precluded as untimely, and, because Armstrong provided no meritorious reason to explain his failure to file a timely Rule 32 notice, the claim was subject to dismissal on that basis as well. *See* Ariz. R. Crim. P. 32.2(a) and (b); Ariz. R. Crim. P. 32.4(a).

¶5 Accordingly, although review is granted, relief is denied.