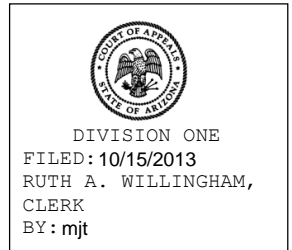


NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED  
EXCEPT AS AUTHORIZED BY APPLICABLE RULES.  
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);  
Ariz. R. Crim. P. 31.24



IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION ONE

IN RE JOHN S. )  
) No. 1 CA-JV 13-0157  
)  
) DEPARTMENT S  
)  
) **MEMORANDUM DECISION**  
) (Not for Publication -  
) 103(G) Ariz. R.P.Juv.  
) Ct.; Rule 28 ARCAP)  
)  
\_\_\_\_\_ )

Appeal from the Superior Court in Maricopa County

Cause No. JV184524

The Honorable Roger L. Hartsell, Judge *Pro Tempore*

**ADJUDICATION REVERSED**

Christina Phillis, Maricopa County Public Advocate Mesa  
By A. Jason Max, Deputy Public Advocate  
Attorneys for Appellant

William G. Montgomery, Maricopa County Attorney Phoenix  
By Karen Kemper, Deputy County Attorney  
Attorneys for Appellees.

**J O H N S E N**, Judge

¶1 John S. ("Appellant") appeals the superior court's order adjudicating him in violation of two terms of his probation. We accept the State's confession of error and reverse the adjudication.

¶12 The superior court placed Appellant on probation after he was adjudicated delinquent of aggravated criminal damage, a Class 1 misdemeanor. Among the terms of his probation were that he write a letter of apology to a school and complete at least four sessions of tutoring. After he successfully completed each term of his probation, he was to be released without further order of the court.

¶13 Appellant's probation officer filed a petition to revoke his probation, alleging Appellant had violated a term of his probation that required him to provide notice of a change of address. At the hearing, there was no dispute that Appellant had moved without providing notice. The issue was whether Appellant still was on probation at the time he moved. Appellant argued that before he changed addresses, he had been discharged from probation automatically upon his successful completion of each term of probation. There was no dispute that Appellant had written the letter of apology and had completed the four tutoring sessions. The superior court found Appellant remained on probation, however, because he had not informed his probation officer in writing that he had completed those terms.

¶14 On appeal, Appellant argues the superior court erred because the terms of his probation did not state in writing that he must provide written notice that he had provided the apology and completed the tutoring.

¶15 A probationer must have received written notice of the term of probation upon which a petition to revoke is based. *In re Richard M.*, 196 Ariz. 84, 86, ¶ 8, 993 P.2d 1048, 1050 (App. 1999); *In re Maricopa County Juvenile Action No. JV-508488*, 185 Ariz. 295, 301, 915 P.2d 1250, 1256 (App. 1996). As the State acknowledges in confessing error, the terms of Appellant's probation did not expressly direct him to notify his probation officer that he had written the apology and completed the tutoring. Because Appellant lacked written notice that he was to notify his probation officer in writing when he had written the apology and finished the tutoring, he was released from probation before he changed his address. Accordingly, we reverse the adjudication of Appellant in violation of his probation.

\_\_\_\_\_/s/\_\_\_\_\_  
DIANE M. JOHNSEN, Chief Judge

CONCURRING:

\_\_\_\_\_/s/\_\_\_\_\_  
JOHN C. GEMMILL, Judge

\_\_\_\_\_/s/\_\_\_\_\_  
ANDREW W. GOULD, Judge