

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL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

RODNEY DAN MYERS, *Petitioner*.

No. 1 CA-CR 15-0325 PRPC
FILED 3-7-2017

Petition for Review from the Superior Court in Maricopa County
No. CR2013-105273-001
The Honorable Peter C. Reinstein, Judge

REVIEW GRANTED; RELIEF DENIED

COUNSEL

Maricopa County Attorney's Office, Phoenix
By E. Catherine Leisch
Counsel for Respondent

Rodney Dan Myers, Florence
Petitioner

STATE v. MYERS
Decision of the Court

MEMORANDUM DECISION

Presiding Judge Samuel A. Thumma delivered the decision of the Court, in which Chief Judge Michael J. Brown and Judge Maurice Portley¹ joined.

T H U M M A, Judge:

¶1 Petitioner Rodney Dan Myers 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 (2017).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 (2012). Finding no such error, this court grants review but denies relief.

¶2 Myers pled guilty to two counts of molestation of a child and two counts of attempted sexual conduct with a minor, all dangerous crimes against children. The court sentenced Myers to two consecutive 19-year prison terms for the molestation convictions and placed him on lifetime probation for each of the attempted sexual conduct convictions.

¶3 Myers contends his four convictions are based on a single act. He argues, therefore, that the indictment was multiplicitous and his convictions violate the prohibition against double jeopardy. He further argues his trial counsel was ineffective for failing to raise these issues and that his guilty pleas were not knowing, intelligent and/or voluntary because he was not otherwise aware of the multiplicity and double jeopardy issues.³

¶4 Contrary to Myers' arguments, the indictment identified four separate, distinct acts. The factual bases to support his guilty plea were four separate, distinct acts. That Myers committed each act against the same

¹ The Honorable Maurice Portley, Retired Judge of the Court of Appeals, Division One, has been authorized to sit in this matter pursuant to Article VI, Section 3 of the Arizona Constitution.

² Absent material revisions after the relevant dates, statutes and rules cited refer to the current version unless otherwise indicated.

³ Myers raised additional issues below that he does not present for review.

STATE v. MYERS
Decision of the Court

victim as part of the same criminal episode does not render them a single act. Therefore, the indictment was not duplicitous; Myers' convictions did not violate double jeopardy; trial counsel had no basis to raise these issues and Myers has not shown that his pleas were not knowing, intelligent and voluntary.

¶5 For these reasons, this court grants review but denies relief.



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