

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL  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

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STATE OF ARIZONA, *Respondent*,

*v.*

JAMES DAVID KELLEY, *Petitioner*.

No. 1 CA-CR 15-0586 PRPC  
FILED 5-9-2017

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Petition for Review from the Superior Court in Maricopa County  
No. CR2012-139226-001  
The Honorable Cynthia Bailey, Judge

**REVIEW GRANTED; RELIEF DENIED**

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COUNSEL

Maricopa County Attorney's Office, Phoenix  
By Diane M. Meloche  
*Counsel for Respondent*

James David Kelley, Tucson  
*Petitioner*

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**MEMORANDUM DECISION**

Judge James P. Beene delivered the decision of the Court, in which  
Presiding Judge Samuel A. Thumma and Judge Lawrence F. Winthrop  
joined.

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STATE v. KELLEY  
Decision of the Court

B E E N E, Judge:

¶1 James David Kelley petitions for review from the dismissal of his notice of post-conviction relief. We have considered the petition, and for the reasons stated, grant review but deny relief.

¶2 Kelley pled guilty to second degree murder and the trial court sentenced him to a presumptive sixteen-year prison term. More than a year after his sentencing, he filed an untimely notice of post-conviction relief in which he indicated his intent to raise claims of newly discovered evidence, failure to file timely notice of post-conviction relief was without fault on his part, and actual innocence. The trial court summarily dismissed the notice, ruling Kelley failed to provide sufficient factual or legal basis to support a claim, and subsequently denied Kelley's motion to reconsider.

¶3 On review, Kelley does not argue that the trial court erred in summarily dismissing his notice of post-conviction relief or denying his motion to reconsider. Instead, Kelley claims his conviction violates the International Covenant on Civil and Political Rights (ICCPR).

¶4 The ICCPR does not create judicially-enforceable individual rights, is not self-executing, and has not been given effect by congressional legislation. *United States v. Duarte-Acero*, 296 F.3d 1277, 1283 (11th Cir. 2002). Accordingly, the ICCPR is not binding on courts of the United States. *Buell v. Mitchell*, 274 F.3d 337, 372 (6th Cir. 2001). Thus, the ICCPR does not provide any basis for granting Kelley relief from his conviction.

¶5 We grant review but deny relief.



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