

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL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

RONNIE LEE WRIGHT, *Petitioner*.

No. 1 CA-CR 15-0642 PRPC
FILED 4-6-2017

Petition for Review from the Superior Court in Mohave County
No. CR-2013-00318
The Honorable Steven F. Conn, Judge

REVIEW GRANTED; RELIEF DENIED

COUNSEL

Mohave County Attorney's Office, Kingman
By Matthew J. Smith
Counsel for Respondent

Erika A. Arlington, Esq., PC, Flagstaff
By Erika A. Arlington
Counsel for Petitioner

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MEMORANDUM DECISION

Presiding Judge Peter B. Swann delivered the decision of the court, in which Judge Kent E. Cattani and Judge Donn Kessler joined.

S W A N N, Judge:

¶1 Ronnie Lee Wright pled guilty to possession of dangerous drugs, and the superior court sentenced him to an aggravated term of three years of imprisonment. The superior court denied Wright's timely petition for post-conviction relief. Wright now seeks relief from this court, renewing his contention that he received ineffective assistance of counsel at sentencing. We grant review but deny relief.

¶2 "A decision as to whether a petition for post-conviction relief presents a colorable claim is, to some extent, a discretionary decision for the trial court." *State v. D'Ambrosio*, 156 Ariz. 71, 73 (1988). Further, the claim must have the appearance of validity. *State v. Suarez*, 23 Ariz. App. 45, 46 (1975). To state a colorable claim of ineffective assistance of counsel, a defendant must show that counsel's performance fell below objectively reasonable standards and that the deficient performance prejudiced the defendant. *Strickland v. Washington*, 466 U.S. 668, 688-92 (1984); *State v. Nash*, 143 Ariz. 392, 397 (1985). The defendant must show that there is a "reasonable probability," which is a probability sufficient to undermine confidence in the outcome, that the result of the proceeding would have been different but for counsel's unprofessional errors. *Strickland*, 466 U.S. at 694.

¶3 Wright contends that counsel offered no arguments to negate the court's inclination and internal policy to impose consecutive sentences when sentencing a defendant on separate and distinct charges. His claim does not satisfy either prong of the *Strickland* test. A review of the record reveals that sentencing counsel specifically requested that the court impose its sentence concurrent to Wright's imprisonment in a "federal case from the same incident." At sentencing, the superior court held that it was appropriate for the superior-court sentence to begin upon completion of the federal sentence because the sentences related to two different crimes committed at two different locations. The imposition of consecutive sentences was allowable under A.R.S. § 13-711(A), and Wright fails to prove

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that the sentence would have been different had counsel provided any additional argument or facts to the court.

¶4 For the foregoing reasons, we grant review but deny relief.



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