

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL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

JESSIE LEWIS, *Petitioner*.

No. 1 CA-CR 16-0227 PRPC
FILED 12-12-2017

Petition for Review from the Superior Court in Maricopa County
No. CR 2000-018968
The Honorable Peter C. Reinstein, Judge

REVIEW GRANTED; RELIEF DENIED

COUNSEL

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

Jessie Lewis, Eloy
Petitioner

MEMORANDUM DECISION

Presiding Judge Kent E. Cattani delivered the decision of the Court, in
which Judge Jon W. Thompson and Chief Judge Samuel A. Thumma joined.

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C A T T A N I, Judge:

¶1 Jessie Lewis petitions for review from the summary dismissal of his untimely and successive notice of post-conviction relief. For reasons that follow, we grant review but deny relief.

¶2 Lewis pleaded guilty to possession of dangerous drugs, a class 4 felony. On July 3, 2001, the superior court sentenced him to the presumptive 2.5-year sentence.

¶3 In August 2001, Lewis filed a timely notice of post-conviction relief. Appointed counsel filed a notice stating that there were no grounds for relief, and Lewis did not file a pro se petition. Accordingly, the superior court dismissed that proceeding in May 2002.

¶4 In October 2015, Lewis filed a notice of post-conviction relief indicating his intent to raise claims of illegal search and seizure, violation of right to privacy, and lack of jurisdiction in regards to his conviction. Finding the notice to be both untimely and successive, the superior court summarily dismissed the notice, ruling that Lewis failed to meet his burden of stating a claim for relief that can be raised in an untimely proceeding. This petition for review followed.

¶5 On review, Lewis again asserts that the superior court lacked jurisdiction to convict him because the police officer who stopped him never issued a citation. We review the dismissal of a proceeding for post-conviction relief for abuse of discretion. *State v. Bennett*, 213 Ariz. 562, 566, ¶ 17 (2006).

¶6 Lewis's subject matter jurisdiction argument fails because the State filed a direct complaint charging Lewis with possession of dangerous drugs, the felony offense to which he pleaded guilty. *See* Ariz. Const. art. 6, § 14 (superior court has subject matter jurisdiction over all felony cases).

¶7 To the extent Lewis is also asserting a personal jurisdiction claim, his guilty plea waived that claim, along with any other constitutional claims relating to his underlying conviction. *See State v. Leyva*, 241 Ariz. 521, 527, ¶ 18 (App. 2017) (holding that a guilty plea waives constitutional defects and defenses except those relating to the validity of the plea); *State v. Banda*, 232 Ariz. 582, 584, ¶ 9 (App. 2013) (noting that personal jurisdiction, unlike subject matter jurisdiction, can be waived). And Lewis further waived his claims by failing to raise them in his first post-conviction proceeding. *See* Ariz. R. Crim. P. 32.2(a), 32.4; *see also State v. Shrum*, 220 Ariz. 115, 118, ¶ 13 (2009) (noting "few exceptions" to "general rule of

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preclusion” for claims in untimely or successive petitions). Accordingly, the superior court did not abuse its discretion by summarily dismissing Lewis’s notice of post-conviction relief.



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