

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL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

DAVID MARK KORITAN, *Petitioner*.

No. 1 CA-CR 16-0493 PRPC
FILED 10-31-2017

Petition for Review from the Superior Court in Maricopa County
No. CR2015-001932-001
The Honorable Teresa A. Sanders, Judge

REVIEW GRANTED; RELIEF DENIED

COUNSEL

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

David Mark Koritan, Tucson
Petitioner

MEMORANDUM DECISION

Judge Kenton D. Jones delivered the decision of the court, in which Presiding Judge Margaret H. Downie and Chief Judge Samuel A. Thumma joined.

JONES, Judge:

¶1 David Koritan petitions this Court for review from the dismissal of his petition for post-conviction relief. We have considered the petition for review and, for the reasons stated, grant review and deny relief.

¶2 Koritan pleaded guilty to one count of theft and one count of forgery following events occurring in 2014. He was sentenced to five years' imprisonment on the theft charge and to a term of probation on the forgery charge to begin upon absolute discharge from prison. The prison term was ordered to run concurrent to terms imposed in two other cases, CR2013-105439-001 and CR2013-002274-002 (the 2013 cases).

¶3 Koritan filed a timely notice of post-conviction relief and petition seeking to overturn his plea, alleging counsel was ineffective for failing to investigate and assert that his plea was barred by plea agreements in the 2013 cases, which he asserts contained specific provisions by which the State agreed not to file additional charges. The superior court summarily dismissed his petition, and Koritan timely petitioned for review.

¶4 In his petition for review, Koritan reiterates his claims of ineffective assistance of counsel and defects in the plea agreement arising out of the State's purported earlier promise not to file additional charges. We will not disturb a superior court's ruling on a petition for post-conviction relief absent an abuse of discretion or an error of law. *State v. Gutierrez*, 229 Ariz. 573, 576-77, ¶ 19 (2012). Review of the written plea agreements from the 2013 cases reveals they contain no such provision precluding the filing of additional charges against Koritan. That being the case, Koritan has not stated a colorable claim for relief, and we find no abuse of discretion in the dismissal of his petition for post-conviction relief.

STATE v. KORITAN
Decision of the Court

¶5

Accordingly, we grant review and deny relief.