

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL  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

GERALD MELVIN CALMESE, *Petitioner*.

No. 1 CA-CR 16-0626 PRPC  
FILED 10-5-2017

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Petition for Review from the Superior Court in Maricopa County  
No. CR2010-008080-001 DT  
The Honorable Daniel G. Martin, Judge

**REVIEW GRANTED; RELIEF DENIED**

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COUNSEL

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

Gerald Melvin Calmese, Tucson  
*Petitioner*

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**MEMORANDUM DECISION**

Presiding Judge Lawrence F. Winthrop, Judge Diane M. Johnsen, and  
Judge Maria Elena Cruz delivered the following decision.

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STATE v. CALMESE  
Decision of the Court

**PER CURIAM:**

¶1 Petitioner Gerald Melvin Calmese 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. This is petitioner's second successive petition.

¶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). It is petitioner's burden to show that the superior court abused its discretion by denying the petition for post-conviction relief. *See State v. Poblete*, 227 Ariz. 537, ¶ 1 (App. 2011) (petitioner has burden of establishing abuse of discretion on review).

¶3 We have reviewed the record in this matter, the superior court's order denying the petition for post-conviction relief, and the petition for review. We find that petitioner has not established an abuse of discretion.

¶4 We grant review and deny relief.



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