

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL  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

FERRIS DEANDRE WILLIAMS, *Petitioner*.

No. 1 CA-CR 16-0743 PRPC  
FILED 10-17-2017

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Petition for Review from the Superior Court in Maricopa County  
No. CR2009-150153-001  
The Honorable John Christian Rea, Judge

**REVIEW GRANTED; RELIEF DENIED**

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COUNSEL

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

Ferris Deandre Williams, Florence  
*Petitioner*

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**MEMORANDUM DECISION**

Judge Jon W. Thompson delivered the decision of the Court, in which Presiding Judge Kenton D. Jones and Chief Judge Samuel A. Thumma joined.

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**T H O M P S O N**, Judge:

¶1 Ferris Deandre Williams 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 In August 2009, shortly after Williams turned 18, he was charged with failure to register as a sex offender.<sup>1</sup> He entered into a plea agreement which stipulated a sentence of ten years' probation with the requirement he attend sex offender treatment and imposed lifetime registration as a sex offender. The agreement was also contingent upon Williams acceptance of a plea agreement in another case.

¶3 Williams's probation was revoked for absconding in January 2010 and reinstated in April 2010. He absconded again and his probation was reinstated. The superior court's minute entry noted that he was to register as a sex offender, but only until the age of 25. A third petition to revoke his probation was filed in December 2010. Williams was associating with criminals, using drugs, failed to submit to drug testing, failed to pay fines, was not employed or in school and failed to participate in treatment. The superior court once again reinstated his probation but mandated intensive supervision. In January 2012 Williams's probation was revoked for engaging in criminal behavior. He was sentenced to prison for 2.5 years, to run concurrently with his sentence in two other cases.

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<sup>1</sup> Williams was born on May 3, 1991. The date of the offense listed in the indictment is between May 1 and May 12 of 2009. He was arrested on August 27, 2009. Therefore, he was an adult at all relevant times. The requirement to register as a sex offender was initially imposed by the juvenile court.

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¶4 In April 2016, Williams filed a Request for Termination of Sex Registration claiming that since the requirement to register was imposed as a juvenile, the requirement ended at age 25. The state was ordered to respond. The superior court denied the request.<sup>2</sup> The court found that Williams had been required to register due to a juvenile adjudication but that he had subsequently failed to register as an adult. The court also found that any notation in subsequent minute entries that indicated that the registration requirement end at age 25 were illegal and not of force or effect. The plea agreement, *supra* ¶ 2, expressly stipulated a requirement of lifetime registration. This superseded the law that would have terminated Williams’s registration for his juvenile adjudication at age 25. Williams filed a Motion for Reconsideration and Clarification of Facts, alleging ineffective assistance of counsel. He claimed that counsel erroneously informed him that his registration requirement would end at age 25 when he entered into the plea agreement. The court, without specifically addressing his claims of ineffective assistance of counsel, denied the motion.

¶5 In his petition for review, Williams claims that his attorney was ineffective for erroneously advising him that his registration requirement would end at age 25. Absent an abuse of discretion or error of law, this court will not disturb the superior court ruling on a petition for post-conviction relief. *State v. Gutierrez*, 229 Ariz. 573, 577, ¶ 19 (2012). Williams bears the burden of establishing error. *State v. Poblete*, 227 Ariz. 537, 538, ¶ 1 (App. 2011)

¶6 To the extent that the superior court considered the Request for Termination of Sex Registration and the Motion for Reconsideration as a petition for post-conviction relief pursuant to Ariz. R. Crim. P. 32.1(a), it is untimely by 4 years. Williams has failed to show that his failure to file a timely petition was without fault on his part. No exception under Ariz. R. Crim. P. 32.1(d)(e)(f)(g) or (h) applies. Williams failed to include the substance of any specific exception and the reasons for not raising the claim in a timely manner. If a defendant who seeks post-conviction relief does not state meritorious reasons regarding why a claim was not raised in a timely manner, proceedings “shall” be dismissed. Ariz. R. Crim. P. 32.2(b). While these are not the grounds upon which the trial court dismissed the

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<sup>2</sup> The record provided to this court is missing the Request for Termination of Sex Registration. It is noted on the superior court docket and referenced in the state’s response and superior court order. Williams petitions this court for review from the denial of his Motion for Reconsideration and Clarification of Facts.

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petition, this court may affirm a result on any basis supported by the record. *State v. Wassenaar*, 215 Ariz. 565, 577, ¶ 50 (App. 2007).

¶7 Further, even if Williams had filed in a timely manner, he has failed to raise a colorable claim. To state a colorable claim of ineffective assistance of counsel, Williams must show that counsel's performance fell below objectively reasonable standards and that the deficient performance prejudiced him. *Strickland v. Washington*, 466 U.S. 668, 687 (1984), *State v. Nash*, 143 Ariz. 392, 397 (1985). Williams provides nothing to substantiate his claim. He has filed no affidavit, cites to nothing in the record and does not explain how he was prejudiced by a requirement that was explicitly documented in the plea agreement. The burden is on the petitioner seeking post-conviction relief to show ineffective assistance of counsel, and "the showing must be that of a provable reality, not mere speculation." *State v. Rosario*, 195 Ariz. 264, 268, ¶ 23 (App. 1999).

¶8 Williams first argues in his petition for review that *State v. Espinoza*, 229 Ariz. 421 (App. 2012) controls his claim for relief. Issues not presented to the superior court may not be presented in the petition for review. *State v. Bortz*, 169 Ariz. 575, 577 (App. 1991); Ariz. R. Crim. P. 32.9(c)(1)(ii). The reviewing court will not consider even meritorious issues not first presented to the trial court. *State v. Wagstaff*, 161 Ariz. 66, 71 (App. 1988). Williams' reliance is also misplaced. In *Espinoza*, registration as a sex offender was never ordered by the juvenile court. Thus, the superior court did not have the ability to impose that as a condition after he turned 18. In this case, the juvenile court had jurisdiction and did impose a registration requirement on Williams. He did not appeal that decision. After he turned 18 he failed to register. The superior court had jurisdiction of the class 4 felony pursuant to A.R.S. §§ 13-3824 and -3821. Because the requirement of lifetime registration was imposed on Williams as a condition of the plea agreement, he was properly sentenced as an adult and any provision requiring termination at the age of 25 does not exist.

¶9 A.R.S. § 13-3821(G) does not help Williams either. Although the court may order termination of the requirement to register if the person was under the age of 18 at the time of the offense, probation must be successfully completed. Williams has yet to successfully complete any component of his probation despite multiple opportunities.

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¶10 The superior court did not abuse its discretion or make an error of law in dismissing Williams's claims for relief. We grant review, but deny relief.



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