IN THE
ARIZONA COURT OF APPEALS
DIVISION ONE

STATE OF ARIZONA, *Respondent*,

v.

ANDRAMERAL REDMOND BLEDSOE, *Petitioner*.

No. 1 CA-CR 17-0214 PRPC
FILED 1-25-2018

Petition for Review from the Superior Court in Maricopa County
No. CR2014-002681-001 DT
The Honorable Warren J. Granville, Judge

REVIEW GRANTED; RELIEF DENIED

COUNSEL

Maricopa County Attorney's Office, Phoenix
By Lisa Marie Martin
Counsel for Respondent

Andrameral Redmond Bledsoe, Kingman
Petitioner

MEMORANDUM DECISION

Presiding Judge Lawrence F. Winthrop delivered the decision of the Court, in which Judge Jennifer B. Campbell and Judge Paul J. McMurdie joined.

W I N T H R O P, Presiding Judge:

¶1 Andrameral Redmond Bledsoe petitions this court for review of the summary dismissal of his of-right petition for post-conviction relief ("PCR") filed pursuant to Arizona Rule of Criminal Procedure ("Rule") 32.1. We have considered the petition for review and, for the reasons stated, grant review but deny relief.

¶2 In 2014, Bledsoe was charged with three counts of sexual conduct with a minor under the age of fifteen (Counts 1-3), each a class 2 felony, and one count of sexual conduct with a minor aged fifteen or older (Count 4), a class 6 felony. He pled guilty to three counts of attempted sexual conduct with a minor under the age of fifteen, each a class 3 felony and dangerous crime against children, and the State dismissed Count 4. As part of the plea agreement, Bledsoe stipulated to a prison term between ten and fifteen years for Count 1 and to terms of lifetime probation for Counts 2 and 3. In accordance with this plea agreement, the superior court sentenced Bledsoe to a presumptive term of ten years' imprisonment (Count 1), followed by two concurrent terms of lifetime probation (Counts 2 and 3).

¶3 Bledsoe timely commenced PCR proceedings. After reviewing the record, appointed counsel notified the court she had found no colorable claims for relief. Bledsoe then filed a *pro per* petition for post-conviction relief, which the superior court summarily dismissed, and this petition for review followed.

¶4 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. *See State v. Gutierrez*, 229 Ariz. 573, 577, ¶ 19 (2012). The petitioner bears the burden to show the superior court abused its discretion. *See State v. Poblete*, 227 Ariz. 537, 538, ¶ 1 (App. 2011).

¶5 On review, Bledsoe argues that an "of-right" Rule 32 petitioner, whose counsel has failed to find a colorable claim for relief, is entitled to an independent review of the record by the superior court for arguable issues and fundamental error, akin to the process required for direct appeals under *Anders v. California*, 386 U.S. 738 (1967). As recently recognized by this court, however, the current Rule 32 procedure does not

require the superior court to conduct such a review. *State v. Chavez*, 243 Ariz. 313, 318-19, ¶ 17 (App. 2017).[1]

¶6 Bledsoe also contends the superior court improperly enhanced his sentence for Count 1 as a dangerous crime against children pursuant to Arizona Revised Statutes ("A.R.S.") section 13-705 (Supp. 2017). To the extent Bledsoe argues the court contravened *Apprendi v. New Jersey*, 530 U.S. 466 (2000), by failing to have a jury determine whether the underlying offense qualified as a dangerous crime against children, the record reflects Bledsoe expressly: (1) agreed the court could find, by a preponderance of the evidence, any enhancement or aggravating circumstances, and (2) waived his right to a jury trial on any fact used to impose a sentence. More importantly, Bledsoe admitted the victim of Counts 1-3 was "between the ages of 12 and 14" when the offenses were committed. Therefore, the ten-year sentence for Count 1 did not exceed the sentence the court was entitled to impose based on the admitted facts.

¶7 In addition, Bledsoe argues the age of the victim cannot serve as both an element of the offense and the basis for enhancement. Contrary to Bledsoe's claim, however, an element of a crime may be used for enhancement and aggravation purposes unless expressly prohibited by the relevant sentencing scheme. *See State v. Lara*, 171 Ariz. 282, 283-84 (1992). Likewise, Bledsoe's assertion that an attempted offense may not be enhanced as a dangerous crime against children is without merit. Section 13-705(J) pertains to dangerous crimes against children in the second degree and provides for a presumptive term of ten years' imprisonment, as imposed by the superior court in this case.

¶8 Bledsoe next asserts the superior court improperly imposed terms of lifetime probation for Counts 2 and 3 in the absence of any additional finding of fact. Although Bledsoe argues lifetime probation is an "aggravated" sentence, A.R.S. § 13-902(E) (Supp. 2017) authorizes such a sentence for any sexual offense when "the court believes [it] is appropriate for the ends of justice." Because Bledsoe's convictions for attempted sexual conduct with a minor authorized sentences of lifetime probation under the

---

[1] Although Bledsoe asserts his appointed counsel "abandon[ed]" him, and further contends the superior court "allowed counsel to withdraw," the record reflects the court ordered appointed counsel to remain in an advisory capacity after counsel informed the court she had found no colorable claims for relief.

statute, the court did not err by imposing sentences as stipulated to by the parties.

¶9 Finally, Bledsoe contends the factual basis for his offenses was insufficient to support the judgment of guilt. Specifically, Bledsoe notes that his counsel stated the victim was under eighteen years of age rather than under fifteen years of age when she provided the factual basis. "A factual basis can be established by 'strong evidence' of guilt and does not require a finding of guilt beyond a reasonable doubt." *State v. Salinas*, 181 Ariz. 104, 106 (1994) (citation omitted). "[E]vidence of guilt may be derived from any part of the record including presentence reports, preliminary hearing transcripts, or admissions of the defendant." *Id.* (citation omitted). In this case, the presentence report details that Bledsoe's sexual contact with the victim as charged in Counts 1-3 occurred before the victim's fifteenth birthday. Moreover, Bledsoe expressly admitted the victim was under fifteen years old at the relevant times in his plea agreement and sentencing memorandum. Therefore, the superior court properly accepted Bledsoe's guilty plea and sentenced him based on that plea.[2]

¶10 Accordingly, we grant review but deny relief.

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

[2] Because the superior court imposed lawful and correct sentences, Bledsoe's claim that his attorney was ineffective when she failed to object to the sentences is without merit. Likewise, there is no basis to conclude the superior court violated Bledsoe's liberty interests by imposing the sentences at issue.