

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL  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

GARY JOHN EMERSON, *Petitioner*.

No. 1 CA-CR 18-0230 PRPC  
FILED 7-12-2018

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Petition for Review from the Superior Court in Maricopa County  
No. CR2010-110980-001  
The Honorable Jerry Bernstein, Judge *Pro Tempore*

**REVIEW GRANTED; RELIEF DENIED**

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COUNSEL

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

Gary John Emerson, Florence  
*Petitioner*

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**MEMORANDUM DECISION**

Presiding Judge Diane M. Johnsen, Judge Paul J. McMurdie and Judge  
David D. Weinzwieg delivered the decision of the Court.

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STATE v. EMERSON  
Decision of the Court

PER CURIAM:

¶1 Petitioner Gary John Emerson 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 first petition for post-conviction relief.

¶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 conclude that petitioner has not established an abuse of discretion.

¶4 For the foregoing reasons, we grant review and deny relief. This decision is without prejudice to petitioner's right to file a civil action alleging inadequate medical care during his incarceration.



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