

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL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

THOMAS LARRY MCLEAN, *Petitioner*.

No. 1 CA-CR 18-0413 PRPC
FILED 9-11-2018

Petition for Review from the Superior Court in Maricopa County
No. CR2011-147566-003 DT
The Honorable Cynthia J. Bailey, Judge

REVIEW GRANTED; RELIEF DENIED

COUNSEL

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

Thomas Larry McLean, Tucson
Petitioner

MEMORANDUM DECISION

Presiding Judge James B. Morse Jr., Judge Kent E. Cattani, and Judge
Lawrence F. Winthrop delivered the decision of the Court.

STATE v. MCLEAN
Decision of the Court

PER CURIAM:

¶1 Petitioner Thomas Larry McLean 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 third 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, 538, ¶ 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 but deny relief.¹



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

¹ The petition for review demonstrates McLean's understandable confusion about the distinction between an enhanced sentence – which he received under Arizona Revised Statutes section 13-703(C) and (J) based on his two historical prior felony convictions – and an aggravated sentence, which he did not receive. "Sentence enhancement elevates the entire range of permissible punishment while aggravation and mitigation raise or lower a sentence within that range." *State v. Alvarez*, 205 Ariz. 110, 112 n.1, ¶ 4 (App. 2003).