

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL  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

LEO BEGAY, *Petitioner*.

No. 1 CA-CR 19-0050 PRPC

FILED 10-1-2019

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Petition for Review from the Superior Court in Maricopa County

No. CR2016-139002-001

The Honorable Annielaurie Van Wie, Judge *Pro Tempore*

**REVIEW GRANTED; RELIEF DENIED**

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COUNSEL

Maricopa County Attorney's Office, Phoenix

By Andrea L. Kever

*Counsel for Respondent*

Leo Begay, Florence

*Petitioner*

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**MEMORANDUM DECISION**

Presiding Judge Samuel A. Thumma delivered the decision of the Court, in which Judge Jennifer M. Perkins and Judge Paul J. McMurdie joined.

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STATE v. BEGAY  
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**T H U M M A**, Judge:

¶1 Petitioner Leo Begay seeks review of the superior court’s denial of his petition for post-conviction relief (PCR), filed pursuant to Arizona Rule of Criminal Procedure 32. Absent an abuse of discretion or error of law, this court will not disturb the superior court’s ruling on a PCR petition. *State v. Gutierrez*, 229 Ariz. 573, 577 ¶ 19 (2012). Because Begay has shown no such error, this court grants review but denies relief.

¶2 In February 2018, Begay pled guilty to aggravated assault, committed on August 2016, a Class 4 felony and a domestic violence offense, with one historical prior felony conviction. The superior court sentenced him to a stipulated 4.5-year prison term, to run consecutively to a prison term in another matter.

¶3 Begay filed a timely PCR notice. After investigation, Begay’s counsel informed the court he could find no colorable PCR claim. Begay then filed a pro se PCR petition, arguing the prosecutor broke an “oral promise” not to recommend a consecutive prison term. In support, Begay noted the parties deleted language in the plea agreement before presenting it to the court, so that the written plea read as follows: “Defendant shall be sentenced to the presumptive term of 4.5 years in the Arizona Department of Corrections, ~~to be served consecutively to any sentence imposed in Maricopa County Cause Number CR2016-127396-001.~~” Begay also argued the court erred in aggravating his sentence by using a prior felony conviction from another state. Finally, Begay challenged the factual basis for the plea. The court denied Begay’s petition, and this timely petition for review followed.

¶4 The order denying Begay’s PCR petition clearly identified and correctly ruled upon the issues raised. The court did so in a thorough, well-reasoned manner that will allow any future court to understand the rulings. “No useful purpose would be served by this court rehashing the trial court’s correct ruling in a written decision.” *State v. Whipple*, 177 Ariz. 272, 274 (App. 1993). Accordingly, this court adopts the superior court’s ruling. In doing so, this court does not address Begay’s prosecutorial misconduct claims, which were not presented to the superior court and cannot be pressed for the first time with this court. Ariz. R. Crim. P. 32.9(c)(4)(B)(ii).

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For these reasons, this court grants review but denies relief.



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