

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL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

BRENT FITZGERALD DUKE, *Petitioner*.

No. 1 CA-CR 19-0147 PRPC
FILED 11-19-2019

Petition for Review from the Superior Court in Navajo County
Nos. S0900CR201400538
S0900CR201500155
S0900CR201500407
The Honorable Ralph E. Hatch, Judge

REVIEW GRANTED; RELIEF DENIED

APPEARANCES

Coconino County Attorney's Office, Flagstaff
By Mark D. Huston
Counsel for Respondent

Brent Fitzgerald Duke, Buckeye
Petitioner

STATE v. DUKE
Decision of the Court

MEMORANDUM DECISION

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

PER CURIAM:

¶1 Petitioner Brent Fitzgerald Duke 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, untimely petition for review.

¶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, 278 P.3d 1276, 1280 (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, 260 P.3d 1102, 1103 (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 and deny relief.



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