

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL  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

RICHARD H ASHBY, III, *Petitioner*.

No. 1 CA-CR 19-0153 PRPC  
FILED 11-21-2019

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Appeal from the Superior Court in Yavapai County  
No. P1300CR940155  
P1300CV201900045  
The Honorable Tina R. Ainley, Judge

**REVIEW GRANTED AND RELIEF DENIED**

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COUNSEL

Yavapai County Attorney's Office, Prescott  
By Sheila Sullivan Polk  
*Counsel for Respondent*

Richard H. Ashby, III, Florence  
*Petitioner*

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**MEMORANDUM DECISION**

Presiding Judge Randall M. Howe, Judge David D. Weinzwieg, and Judge  
David B. Gass delivered the decision of the Court.

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STATE v. ASHBY  
Decision of the Court

PER CURIAM:

¶1 Petitioner Richard H. Ashby, III, 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 second, 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 For the foregoing reasons, we grant review and deny relief.



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