

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL  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

THOMAS K. BRAZIER, *Petitioner*.

No. 1 CA-CR 20-0306 PRPC  
FILED 11-24-2020

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Petition for Review from the Superior Court in Maricopa County  
No. CR2015-154315-001  
The Honorable Christopher A. Coury, Judge

**REVIEW GRANTED AND RELIEF DENIED**

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COUNSEL

Maricopa County Attorney's Office, Phoenix  
By Daniel Strange  
*Counsel for Respondent*

Thomas K. Brazier, Phoenix  
*Petitioner*

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**MEMORANDUM DECISION**

Presiding Judge Randall M. Howe delivered the decision of the Court, in  
which Judge Kent E. Cattani and Judge Cynthia J. Bailey joined.

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STATE v. BRAZIER  
Decision of the Court

HOWE, Judge:

¶1 Thomas K. Brazier petitions this Court for review of the dismissal of his petition for post-conviction relief. We have considered the petition and, for the reasons stated, grant review but deny relief.

¶2 Brazier pled guilty to shoplifting with two or more predicate convictions, a class four felony. He was placed on four-and-a-half years of intensive probation to begin upon his release from prison for a sentence imposed for a separate offense. He was later released from prison and started serving his probation term. Brazier's probation was revoked, and he was sentenced to two-and-a-half years' imprisonment with 24 days' presentence incarceration credit for time spent in custody after his probation was revoked. Brazier timely petitioned for post-conviction relief and filed a pro se petition after appointed counsel found no viable claims for relief. He asserted that he was entitled to 499 days' presentence incarceration credit. After the State responded, the trial court summarily dismissed the petition. This petition for review followed.

¶3 Brazier argues that his presentence incarceration credit is not correct and that he is entitled to credit for the time spent in custody before his plea and original sentencing because the trial court never explicitly imposed consecutive sentences. This Court will not disturb the trial court's ruling on a petition for post-conviction relief absent an abuse of discretion or an error of law. *State v. Macias*, 249 Ariz. 335, 339 ¶ 8 (App. 2020). We find no such abuse here.

¶4 The record does not support Brazier's contention. The trial court imposed four years of probation to begin "[u]pon physical release from prison pursuant to A.R.S. § 13-603(K)." Section 13-603(K) applies when community supervision is waived for a consecutive probation sentence. "A consecutive sentence, by definition, does not begin until the sentence to which it is consecutive has been satisfied." *State v. King*, 166 Ariz. 342, 344 (App. 1990). And a defendant is not entitled to "double credit" for consecutive sentences. *State v. Lambright*, 243 Ariz. 244, 251 ¶ 21 (App. 2017). Thus, Brazier is not entitled to "double credit" for time spent in custody that was credited towards a consecutive prison sentence. We therefore find no error in the calculation of his presentence incarceration credit.

¶5 Brazier argues last that he was not present for the summary dismissal of his PCR. Although this issue was not first properly raised before the trial court, *see* Ariz. R. Crim. P. 33.16(c)(2)(B), nothing in the

STATE v. BRAZIER  
Decision of the Court

record indicates that the court held a hearing in violation of Brazier's constitutional right to be present.

¶6 For the foregoing reasons, we grant review but deny relief.



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