

IN THE  
**ARIZONA COURT OF APPEALS**  
DIVISION TWO

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THE STATE OF ARIZONA,  
*Respondent,*

*v.*

RICHARD L. GREEN,  
*Petitioner.*

No. 2 CA-CR 2016-0082-PR  
Filed June 20, 2016

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THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND  
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.  
NOT FOR PUBLICATION  
*See Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Crim. P. 31.24.*

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Petition for Review from the Superior Court in Pinal County  
No. S1100CR201100167  
The Honorable Joseph R. Georgini, Judge

**REVIEW GRANTED; RELIEF DENIED**

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COUNSEL

M. Lando Voyles, Pinal County Attorney  
By Janina N. Walters, Deputy County Attorney, Florence  
*Counsel for Respondent*

Richard L. Green, Florence  
*In Propria Persona*

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**MEMORANDUM DECISION**

Judge Miller authored the decision of the Court, in which Presiding Judge Vásquez and Chief Judge Eckerstrom concurred.

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M I L L E R, Judge:

¶1 Petitioner Richard Green seeks review of the trial court's order denying his petition for post-conviction relief, filed pursuant to Rule 32, Ariz. R. Crim. P. "We will not disturb a trial court's ruling on a petition for post-conviction relief absent a clear abuse of discretion." *State v. Swoopes*, 216 Ariz. 390, ¶ 4, 166 P.3d 945, 948 (App. 2007). Green has not sustained his burden of establishing such abuse here.

¶2 Pursuant to a plea agreement, Green was convicted of sexual exploitation of a minor and two counts of attempted sexual exploitation of a minor. In June 2011, the trial court imposed a ten-year sentence on the exploitation count and suspended the imposition of sentence on the attempt counts, placing Green on a lifetime term of probation.

¶3 Green initiated a proceeding for post-conviction relief in November 2015, arguing his lifetime probation term was illegal. The trial court denied relief, concluding Green's claim was untimely and precluded.

¶4 On review, Green repeats his claim, asserting that his right to "review by this court" had not expired because the probation sentence was illegal. He is mistaken. A claim relating to the legality of a sentence arises under Rule 32.1(a) or (c). Further, none of the cases he cites in support of his argument alters this rule. *See State v. Muldoon*, 159 Ariz. 295, 767 P.2d 16 (1988); *State v. Holder*, 155 Ariz. 83, 745 P.2d 141 (1987); *State v. Whitney*, 151 Ariz. 113, 726 P.2d 210 (App. 1985). Such a claim may not be raised in an untimely proceeding such as this one. Ariz. R. Crim. P. 32.4(a).

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¶5 Therefore, although we grant the petition for review, we deny relief.