

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

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THE STATE OF ARIZONA,  
*Respondent,*

*v.*

ROBERT DENNIS BIXLER,  
*Petitioner.*

No. 2 CA-CR 2015-0195-PR  
Filed June 26, 2015

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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NOT FOR PUBLICATION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 Maricopa County  
No. CR2004134166001DT  
The Honorable Harriett Chavez, Judge

**REVIEW GRANTED; RELIEF DENIED**

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Robert Dennis Bixler, Florence  
*In Propria Persona*

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**MEMORANDUM DECISION**

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

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ECKERSTROM, Chief Judge:

¶1 Petitioner Robert Bixler 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). Bixler has not sustained his burden of establishing such abuse here.

¶2 Pursuant to a plea agreement, Bixler was convicted of sexual exploitation of a minor and luring a minor for sexual exploitation in 2006. The trial court sentenced him to a presumptive, seventeen-year term of imprisonment on the first count and placed him on lifetime probation on the second count.

¶3 Bixler sought and was denied post-conviction relief, and this court denied his subsequent petition for review. *State v. Bixler*, No. 1 CA-CR 08-0192 (order issued Dec. 29, 2008). In 2013, Bixler filed a "Successive Petition for Post-Conviction Relief," in which he argued the court lacked jurisdiction to impose lifetime probation and that the term was "in violation of state law" and "due process." Concluding the claim was precluded because it was or could have been raised in the previous proceeding, the trial court summarily denied relief.

¶4 On review, Bixler contends that because his claim was raised and rejected in his first proceeding, before this court's decisions in *State v. Regenold*, 227 Ariz. 224, 255 P.3d 1028 (App. 2011), and *State v. Villegas*, 227 Ariz. 344, 258 P.3d 162 (App. 2011), it should not be precluded. But, the only claims that may be raised in

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a successive or untimely proceeding are those made pursuant to Rule 32.1(d), (e), (f), (g), or (h). Ariz. R. Crim. P. 32.2(b), 32.4(a). Bixler's claim could arguably be one that a significant change in the law entitled him to relief. But he has presented no argument, below or on review, to establish that our decisions in *Regenold* and *Villegas* represented a significant change in the law or were anything more than "the first [appellate opinion] to interpret" the relevant statutes. *State v. Shrum*, 220 Ariz. 115, ¶¶ 18-23, 203 P.3d 1175, 1179-80 (2009); see also Ariz. R. Crim. P. 32.9(c)(1); *State v. Bolton*, 182 Ariz. 290, 298, 896 P.2d 830, 838 (1995); *State v. Rodriguez*, 227 Ariz. 58, n.4, 251 P.3d 1045, 1048 n.4 (App. 2010); *State v. Ramirez*, 126 Ariz. 464, 468, 616 P.2d 924, 928 (App. 1980).

¶5 Bixler also contends that counsel in his first Rule 32 proceeding was ineffective. He suggested in his petition for post-conviction relief that his first Rule 32 counsel was ineffective for failing to raise his sentencing claim, but he did not develop a claim of ineffective assistance, nor has he done so on review. And, because this proceeding was not a "timely or first" proceeding, the trial court was not required to appoint counsel. See Ariz. R. Crim. P. 32.4(c)(2). Particularly in the absence of a specific request from Bixler, and in view of the circumstances, we cannot say the trial court was required to appoint counsel sua sponte.

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