

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Respondent,

v.

ELIAS BRYTON BLAKE,
Petitioner.

No. 2 CA-CR 2016-0046-PR
Filed May 20, 2016

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NOT FOR PUBLICATION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.

Petition for Review from the Superior Court in Graham County
Nos. CR20080338 and CR20080339
The Honorable Michael D. Peterson, Judge

REVIEW GRANTED; RELIEF DENIED

Elias B. Blake, Florence
In Propria Persona

STATE v. BLAKE
Decision of the Court

MEMORANDUM DECISION

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

V Á S Q U E Z, Presiding Judge:

¶1 Elias Blake seeks review of the trial court’s order summarily dismissing his petition for post-conviction relief filed pursuant to Rule 32, Ariz. R. Crim. P. We will not disturb that order unless the court clearly abused its discretion. *See State v. Swoopes*, 216 Ariz. 390, ¶ 4, 166 P.3d 945, 948 (App. 2007). Blake has not met his burden of demonstrating such abuse here.

¶2 In 2009, Blake pled guilty to two counts of attempted sexual conduct with a minor. The trial court sentenced him to a ten-year prison term for one count, and suspended the imposition of sentence and imposed lifetime probation for the other. Blake sought post-conviction relief, and appointed counsel filed a notice stating she had found “no colorable claims” to raise pursuant to Rule 32. The court dismissed the proceeding in November 2010 because Blake failed to file a pro se petition within the allotted time. In July 2015, Blake filed a petition for post-conviction relief, arguing that his term of lifetime probation was improper and that the longest term the trial court could impose was five years. The court summarily dismissed the petition, and this petition for review followed.

¶3 On review, Blake again claims the trial court could not impose lifetime probation and instead could impose only a five-year term. Even if Blake were correct, he cannot raise this claim in this untimely proceeding. *See Ariz. R. Crim. P. 32.1(c), 32.4(a); see also A.R.S. § 13-1405; 2007 Ariz. Sess. Laws, ch. 290, § 4 (former A.R.S. § 13-902(E))*. Thus, the court did not err in summarily dismissing the petition.

¶4 We grant review but deny relief.