

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL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

STATE OF ARIZONA, *Respondent*,

v.

ANTONNEO R. BOYCE, *Petitioner*.

No. 1 CA-CR 15-0058 PRPC
FILED 11-15-2016

Petition for Review from the Superior Court in Yavapai County
No. P1300CR201301294
The Honorable Tina R. Ainley, Judge

REVIEW GRANTED; RELIEF DENIED

COUNSEL

Yavapai County Attorney's Office, Prescott
By Robert J. Johnson
Counsel for Respondent

Antonneo R. Boyce, Florence
Petitioner Pro Se

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MEMORANDUM DECISION

Judge Samuel A. Thumma delivered the decision of the Court, in which Presiding Judge Patricia K. Norris and Judge Margaret H. Downie joined.

T H U M M A, Judge:

¶1 Petitioner Antonneo R. Boyce 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(2016).¹ 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). Finding no such error, this court grants review but denies relief.

¶2 Boyce pled guilty to misconduct involving weapons based on his possession, on or about November 30, 2013, of a shotgun with a barrel he admitted was only 13 inches long. *See* Ariz. Rev. Stat. (A.R.S.) §§ 13-3102(A)(3) (misconduct involving weapons based on possession of a “prohibited weapon”); 13-3101(A)(8) (“prohibited weapon” defined). In entering into the plea, Boyce clarified some confusion by his attorney in telling the court the barrel “was 13 inches” long.

¶3 Boyce now argues his shotgun was not a “prohibited weapon” because the shotgun was more than 26 inches long; the State withheld information about the overall length of the shotgun and that the definition of “prohibited weapon” is unconstitutionally vague. For these same reasons, Boyce argues the factual basis of his plea was inadequate.

¶4 Contrary to Boyce’s argument, the language of A.R.S. § 13-3101(A)(8)(iv) is clear and unambiguous, not unconstitutionally vague. A shotgun with a barrel length of less than 18 inches is a “prohibited weapon,” regardless of the overall length of the shotgun. *Id.* That Boyce’s shotgun may have been more than 26 inches long overall is irrelevant.² Moreover,

¹ Absent material revisions after the relevant dates, statutes and rules cited refer to the current version unless otherwise indicated.

² A shotgun with an overall length of less than 26 inches also is a “prohibited weapon,” even if the barrel is more than 18 inches long. A.R.S. § 13-3101(A)(8)(iv).

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the factual basis Boyce provided was sufficient to support his guilty plea because he admitted the barrel of his shotgun was only 13 inches long. And for these same reasons, Boyce cannot support his claim for relief based on the State purportedly withholding information about the overall length of the shotgun.

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¶5

For these reasons, this court grants review but denies relief.



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