

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL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

KENNETH LESLIE JACKSON, *Petitioner*.

No. 1 CA-CR 14-0665 PRPC
FILED 9-27-2016

Petition for Review from the Superior Court in Maricopa County
No. CR2009-177562-001
The Honorable Michael W. Kemp, Judge

REVIEW GRANTED; RELIEF DENIED

COUNSEL

Maricopa County Attorney's Office, Phoenix
By Diane Meloche
Counsel for Respondent

Kenneth Leslie Jackson, San Luis
Petitioner

STATE v. JACKSON
Decision of the Court

MEMORANDUM DECISION

Judge Peter B. Swann delivered the decision of the court, in which Presiding Judge Andrew W. Gould and Judge Patricia A. Orozco joined.

S W A N N, Judge:

¶1 Kenneth Leslie Jackson petitions this court for review from the dismissal of his untimely successive proceeding for post-conviction relief. Jackson contends that his counsel in his “of-right” post-conviction-relief proceeding was ineffective because he failed to raise an issue under *Miranda v. Arizona*, 384 U.S. 436 (1966).

¶2 We grant review, but we deny relief. Jackson could have raised his claim in a timely second post-conviction-relief proceeding.¹ See Ariz. R. Crim. P. 32.4(a). Further, Jackson’s “of-right” counsel could not have raised a *Miranda* issue because a plea agreement waives all non-jurisdictional defenses, errors and defects, including deprivations of constitutional rights that occurred before the plea. *State v. Moreno*, 134 Ariz. 199, 200 (App. 1982); *Tollett v. Henderson*, 411 U.S. 258, 267 (1973).



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

¹ A defendant is entitled to effective assistance of counsel in an “of-right” post-conviction-relief proceeding. *State v. Pruett*, 185 Ariz. 128, 131 (App. 1995).