

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Respondent,

v.

RICHARD MARTINEZ,
Petitioner.

No. 2 CA-CR 2016-0221-PR
Filed September 19, 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NOT FOR PUBLICATION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 Pima County
No. CR20080065
The Honorable Jane L. Eikleberry, Judge

REVIEW DENIED

COUNSEL

Barbara LaWall, Pima County Attorney
By Jacob R. Lines, Deputy County Attorney, Tucson
Counsel for Respondent

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Richard Martinez, Florence
In Propria Persona

MEMORANDUM DECISION

Judge Staring authored the decision of the Court, in which Presiding Judge Howard and Judge Espinosa concurred.

STARING, Judge:

¶1 Citing Rule 32.9(c), Ariz. R. Crim. P., Richard Martinez seeks review of the trial court's order denying his motions requesting review of his consecutive sentences and number of days of presentence incarceration credit. We deny review.

¶2 In 2008, Martinez pled guilty to four counts of armed robbery and seven counts of aggravated assault; he was sentenced to a combination of concurrent and consecutive prison terms totaling twenty-one years. The trial court later resentenced Martinez because the state had violated the plea agreement by recommending consecutive sentences. The court imposed the same aggregate twenty-one year prison term.

¶3 Martinez has repeatedly sought and been denied post-conviction relief. *See, e.g., State v. Martinez*, No. 2 CA-CR 2015-0147-PR (Ariz. App. Sept. 3, 2015) (mem. decision); *State v. Martinez*, No. 2 CA-CR 2014-0030-PR (Ariz. App. June 17, 2014) (mem. decision); *State v. Martinez*, No. 2 CA-CR 2012-0235-PR (Ariz. App. Sept. 13, 2012) (mem. decision); *State v. Martinez*, No. 2 CA-CR 2011-0358-PR (Ariz. App. Mar. 15, 2012) (mem. decision); *State v. Martinez*, No. 2 CA-CR 2010-0066-PR (Ariz. App. Aug. 17, 2010) (mem. decision). In March 2015, Martinez filed two "Motion[s] for a hearing" in which he claimed that the trial court was required to recalculate his presentence incarceration credit at resentencing and had failed to do so, and that it also had failed to "set[] forth its reasons" for consecutive sentences. The court denied those motions and

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Martinez's subsequent motions for reconsideration. This petition for review followed.

¶4 Martinez did not cite Rule 32 in his motions below, and the trial court did not address his requests under Rule 32. Thus, despite Martinez's citation to Rule 32.9(c) in his petition filed in this court, there is no ruling on a petition for post-conviction relief for us to review.¹ We therefore deny review.

¹Even had Martinez sought relief pursuant to Rule 32, the proceeding was patently untimely and he has identified no basis for relief that can be raised in an untimely post-conviction proceeding. *See* Ariz. R. Crim. P. 32.4(a).