

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

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ROY FERNANDEZ,  
*Petitioner/Appellant,*

*v.*

THE STATE OF ARIZONA,  
*Respondent/Appellee.*

No. 2 CA-HC 2016-0002  
Filed October 31, 2016

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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NOT FOR PUBLICATION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. Civ. App. P. 28(a)(1), (f).

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Appeal from the Superior Court in Pinal County  
No. S1100CV201600738  
The Honorable Dwight P. Callahan, Judge Pro Tempore

**APPEAL DISMISSED**

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COUNSEL

Roy Fernandez  
*In Propria Persona*

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William G. Montgomery, Maricopa County Attorney  
By Diane Meloche, Deputy County Attorney, Phoenix  
*Counsel for Respondent/Appellee*

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**MEMORANDUM DECISION**

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

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M I L L E R, Judge:

¶1 Roy Fernandez appeals from the trial court's order construing his "writ of mandamus," in which he challenged his conviction in Maricopa County Cause No. CR 2010102629 and sought release from custody, as a petition for writ of habeas corpus. Pursuant to Rule 32.3, Ariz. R. Crim. P., the court transferred Fernandez's petition to the Maricopa County Superior Court and directed that it be treated in that court as a petition for post-conviction relief under Rule 32, Ariz. R. Crim. P.

¶2 The trial court's transfer order was not "an order or judgment refusing [Fernandez's] discharge," A.R.S. § 12-2101(A)(11)(a); it therefore is not an appealable order, *see id.*, and we lack jurisdiction to consider Fernandez's appeal. Accordingly, this appeal is dismissed.