

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

---

THE STATE OF ARIZONA,  
*Respondent,*

*v.*

VICTOR LAMAR MCKANEY,  
*Petitioner.*

No. 2 CA-CR 2013-0248-PR  
Filed November 7, 2013

---

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NOT FOR PUBLICATION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); Ariz. R. Crim. P. 31.24*

---

Petition for Review from the Superior Court in Pinal County

No. S1100CR95020551

The Honorable Boyd T. Johnson, Judge

**REVIEW GRANTED; RELIEF DENIED**

---

COUNSEL

M. Lando Voyles, Pinal County Attorney  
by Ivan S. Abrams, Deputy Attorney, Florence

*Counsel for Respondent*

Victor McKaney, Douglas

*In Propria Persona*

**MEMORANDUM DECISION**

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

---

M I L L E R, Judge:

¶1 Petitioner Victor McKanney seeks review of the trial court's order denying his petition for post-conviction relief, filed pursuant to Rule 32, Ariz. R. Crim. P. "We will not disturb a trial court's ruling on a petition for post-conviction relief absent a clear abuse of discretion." *State v. Swoopes*, 216 Ariz. 390, ¶ 4, 166 P.3d 945, 948 (App. 2007). McKanney has not sustained his burden of establishing such abuse here.

¶2 After a jury trial, McKanney was convicted of first-degree murder and sentenced to imprisonment for his natural life without possibility of parole. This court affirmed his conviction and sentence on appeal. *State v. McKanney*, No. 2 CA-CR 97-0299 (memorandum decision filed Nov. 13, 1997). In 1997, McKanney apparently filed a notice of post-conviction relief. Appointed counsel filed a petition for post-conviction relief and an extension of time for McKanney to file a supplemental pro se petition. The trial court denied relief, but apparently granted two extensions of time for a pro se petition thereafter. McKanney never filed a pro se petition.

¶3 In March 2013, McKanney filed a pro se pleading entitled "Petition for Post-Conviction Relief." In that petition he raised claims of ineffective assistance of appellate and trial counsel<sup>1</sup> and,

---

<sup>1</sup>McKanney alleged trial counsel was ineffective in failing to challenge his confession, to move for an evaluation pursuant to Rule 11, Ariz. R. Crim. P., or to "secure the State's plea offer of not less than 15 years to second degree murder." He claimed appellate counsel was ineffective for failing to argue that the trial court should

STATE v. MCKANEY  
Decision of the Court

relying on *State v. Bennett*, 213 Ariz. 562, 146 P.3d 63 (2006), objected to the fact that the same attorney had represented him on appeal and in his first Rule 32 proceeding. The trial court summarily denied relief.

¶4 On review, McKaney contends that the trial court abused its discretion in concluding his claim of ineffective assistance of trial counsel was precluded, arguing only that trial counsel was ineffective in “fail[ing] to properly explain to him throughout the merits of the plea offer vis-à-vis going to trial.” This claim could have been raised in McKaney’s first proceeding, and, as the trial court correctly concluded, is precluded. See Ariz. R. Crim. P. 32.2(a)(3). Because McKaney presents no argument on his remaining claims, we do not address them. See Ariz. R. Crim. P. 32.9(c)(1) (petition for review shall contain “[t]he reasons why the petition should be granted” and “specific references to the record”); *State v. Rodriguez*, 227 Ariz. 58, n.4, 251 P.3d 1045, 1048 n.4 (App. 2010) (declining to address argument not raised in petition for review). Therefore, although we grant the petition for review, we deny relief.

---

have directed a Rule 11 evaluation and that trial counsel was ineffective.