

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Respondent,

v.

MARQUIS JAMES HALL,
Petitioner.

No. 2 CA-CR 2013-0370-PR
Filed February 7, 2014

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NOT FOR PUBLICATION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 Pima County

No. CR20100390001

The Honorable Jane L. Eikleberry, Judge

REVIEW GRANTED; RELIEF DENIED

COUNSEL

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

Marquis Hall, San Luis
In Propria Persona

STATE v. HALL
Decision of the Court

MEMORANDUM DECISION

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

V Á S Q U E Z, Presiding Judge:

¶1 Petitioner Marquis Hall 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). Hall has not sustained his burden of establishing such abuse here.

¶2 After a jury trial, Hall was convicted of possession of marijuana, possession of drug paraphernalia, and fleeing a law enforcement vehicle. The trial court sentenced him to enhanced, presumptive, concurrent and consecutive prison terms totaling 8.75 years’ imprisonment. This court affirmed his convictions and sentences on appeal. *State v. Hall*, No. 2 CA-CR 2012-0024, ¶ 5 (memorandum decision filed July 27, 2012). Hall also pled guilty to one count of solicitation to possess a narcotic drug, and the court imposed a 1.75-year sentence on that count, to be served consecutively to the sentences on the other counts.

¶3 Hall initiated a proceeding for post-conviction relief, and appointed counsel filed a notice stating she had reviewed the record and was “unable to discern any colorable claim upon which to base a Petition for Post-Conviction Relief.” In a pro se petition, however, Hall claimed he had received ineffective assistance of trial counsel, the trial court had abused its discretion by not granting his motion to allow trial counsel to withdraw, and the court had improperly imposed a consecutive sentence on his solicitation conviction. The trial court summarily denied relief.

STATE v. HALL
Decision of the Court

¶4 On review, Hall does not make any argument related to his claim of ineffective assistance of counsel, and we therefore do not address it. *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); *see also State v. Bolton*, 182 Ariz. 290, 298, 896 P.2d 830, 838 (1995) (“Failure to argue a claim on appeal constitutes waiver of that claim.”). But Hall again argues the trial court erred in denying his “motion to remove couns[el]” and claims his consecutive sentence on the solicitation charge was illegal because the trial court failed to state on the record why such a sentence was imposed as set forth in A.R.S. § 13-711.

¶5 Hall’s claim that the trial court should have granted his motion for withdrawal or replacement of counsel is precluded. *See* Ariz. R. Crim. P. 32.2(a)(3). He did not raise it on appeal and, in the case of the solicitation charge, he waived any such claim, along with all other non-jurisdictional defects, by pleading guilty. *See State v. Canaday*, 116 Ariz. 296, 296, 569 P.2d 238, 238 (1977).

¶6 Likewise, Hall waived any claim that the trial court improperly imposed a consecutive sentence on the solicitation count because he specifically agreed to a consecutive sentence on that count in his plea agreement. We therefore cannot say the court abused its discretion in summarily rejecting the claim. *Cf. State v. Perez*, 141 Ariz. 459, 464, 687 P.2d 1214, 1219 (1984) (appellate court obliged to affirm trial court’s ruling if result legally correct for any reason).

¶7 For these reasons, although we grant the petition for review, we deny relief.