

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Respondent,

v.

ANGEL RENE LOPEZ-VIDAL,
Petitioner.

No. 2 CA-CR 2014-0179-PR
Filed September 2, 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NOT FOR PUBLICATION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. CR20100173003

The Honorable Brenden J. Griffin, Judge

REVIEW DENIED

COUNSEL

The Law Offices of Stephanie K. Bond, P.C., Tucson
By Stephanie K. Bond
Counsel for Petitioner

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MEMORANDUM DECISION

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

ECKERSTROM, Chief Judge:

¶1 Angel Lopez-Vidal petitions this court for review of the trial court's order summarily dismissing his petition for post-conviction relief, filed pursuant to Rule 32, Ariz. R. Crim. P. We will not disturb that ruling unless the court clearly has abused its discretion. *See State v. Swoopes*, 216 Ariz. 390, ¶ 4, 166 P.3d 945, 948 (App. 2007). Lopez-Vidal has not met his burden of demonstrating such abuse here.

¶2 After a jury trial, Lopez-Vidal was convicted of conspiracy to commit armed robbery and first-degree burglary. He additionally pled guilty to weapons misconduct—possession of a firearm by a prohibited possessor. The trial court sentenced him to concurrent prison terms, the longest of which was 9.25 years. We affirmed his trial convictions and sentences on appeal. *State v. Lopez-Vidal*, No. 2 CA-CR 2011-0405 (memorandum decision filed Feb. 8, 2013).

¶3 Lopez-Vidal filed a notice of and petition for post-conviction relief arguing that his trial counsel had been ineffective in failing to renew his motion to sever during trial and for failing to object to the trial court's use of an interrogatory to cure a duplicitous indictment. The trial court summarily dismissed Lopez-Vidal's petition. On review, Lopez-Vidal restates his claims.

¶4 We need not address the arguments Lopez-Vidal raises in his petition for review because his notice of post-conviction relief was not timely filed. He was required to file his notice of post-conviction relief "within thirty days after the issuance of the order and mandate in [his] direct appeal." Ariz. R. Crim. P. 32.4(a). "Any notice not timely filed may only raise claims pursuant to Rule 32.1(d), (e), (f), (g) or (h)." *Id.* The time limits for filing a notice

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and petition “are jurisdictional, and an untimely filed notice or petition shall be dismissed with prejudice.” A.R.S. § 13-4234(G).

¶5 Our mandate issued in Lopez-Vidal’s direct appeal on May 28, 2013. He filed his notice of post-conviction relief on September 12 – 107 days later. He did not identify any claims in his notice that fall within Rule 32.1(d), (e), (f), (g) or (h); thus, the trial court was required to dismiss his notice. See § 13-4234(G). We may uphold the court’s resolution of a case if it was correct for any reason. See *State v. Banda*, 232 Ariz. 582, n.2, 307 P.3d 1009, 1012 n.2 (App. 2013).

¶6 For the foregoing reasons, we deny review.