

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Respondent,

v.

MARTIN LEON CORRAL,
Petitioner.

No. 2 CA-CR 2014-0289-PR
Filed November 28, 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NOT FOR PUBLICATION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. CR20081114

The Honorable Howard Fell, Judge Pro Tempore

REVIEW GRANTED; RELIEF DENIED

COUNSEL

Lori J. Lefferts, Pima County Public Defender
By Rebecca A. McLean, Assistant Public Defender, Tucson
Counsel for Petitioner

STATE v. CORRAL
Decision of the Court

MEMORANDUM DECISION

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

ESPINOSA, Judge:

¶1 Martin Corral seeks review of the trial court's summary denial of his petition for post-conviction relief, filed pursuant to Rule 32.3, Ariz. R. Crim. P. For the following reasons, we grant review but deny relief.

¶2 After a jury trial, Corral was convicted of two counts of aggravated assault with a deadly weapon or dangerous instrument on a peace officer, one count of aggravated driving with an illegal drug or its metabolite in his body while his license was suspended or revoked, one count of criminal damage, and one count of fleeing from a law-enforcement vehicle. The trial court imposed a combination of concurrent and consecutive, enhanced, presumptive prison terms totaling 35.5 years. We affirmed his convictions and sentences on appeal. *State v. Corral*, No. 2 CA-CR 2010-0189 (memorandum decision filed Aug. 26, 2011).

¶3 In a petition for post-conviction relief filed by appointed counsel, Corral argued his trial counsel had been ineffective in failing to "successfully contest" determinations of his mental competency pursuant to Rule 11, Ariz. R. Crim. P. He maintained,

[H]ad the [trial] court had the benefit of all the mental health records, medication failures, misdiagnoses, and appropriate cross-examination and argument, the court would have found [he] was not competent, and moreover, that his rejection of the plea

STATE v. CORRAL
Decision of the Court

[offer tendered by the state] was not knowing, intelligent, or voluntary.¹

He also asserted counsel “should have argued for the plea to be rescheduled for a time when . . . Corral was not delusional.” Finally, he argued “evidence that one’s medical condition was worse than previously believed may qualify as a newly discovered material fact under Rule 32.1(e)” and “the fact that [he] continues to suffer severe, debilitating delusions and hallucinations . . . constitute[s] newly discovered evidence regarding the severity of his disease warranting a resentencing.”

¶4 In a detailed under-advisement ruling, the trial court set forth the history of this case and the facts relevant to Corral’s claims and summarily denied relief, concluding Corral failed to state a colorable claim that he had been prejudiced by ineffective assistance of counsel or that evidence identified in his petition constituted “[n]ewly discovered material facts [that] probably . . . would have changed the . . . sentence,” Ariz. R. Crim. P. 32.1(e). See Ariz. R. Crim. P. 32.6 (“court shall order the petition dismissed” if no material issue of fact or law would entitle defendant to relief and no purpose served by further proceedings).

¶5 This petition for review followed. We review a trial court’s summary denial of post-conviction relief for an abuse of discretion. *State v. Bennett*, 213 Ariz. 562, ¶ 17, 146 P.3d 63, 67 (2006). We find none here. On review, Corral repeats claims that “he failed to receive effective assistance of counsel and that new evidence required a resentencing and an opportunity to accept a previously rejected plea.” He maintains the trial court committed “a serious error of law” in denying an evidentiary hearing, asserting “[t]he trial judge seemed to believe that if the evidence uncovered by Post-

¹As far as we can determine, the plea offer Corral rejected on January 28, 2009, and the one he rejected on March 9, 2010, were substantially similar. Because Corral treats these as a single plea offer made on two different occasions, we see no need to distinguish them.

STATE v. CORRAL
Decision of the Court

Conviction counsel did not convince him, then no colorable claim had been made” but, instead, “the issue is whether the doctor[s’] opinions would have changed” had trial counsel made them aware of additional records.

¶6 This argument is not supported by the record. Only one evaluation of Corral’s competency had been ordered pursuant to Rule 11, and the trial court found Corral competent to stand trial in September 2008. As Corral acknowledged in his petition below, both the psychologist and the psychiatrist who examined him during that evaluation had reviewed Correctional Medical Services records and so had been “aware that [he] was on antipsychotic medication” and “was complaining of hearing voices despite the medication.” Although these examiners may not have known the full extent of Corral’s treatment history, each had been aware that he had been treated for mental illness before his arrest. Most of the additional mental health records identified in Corral’s petition below pertained to treatment he received well after these doctors had completed their evaluations. Thus, “the issue” did not involve the doctors’ opinions of Corral’s competency; the issue, as expressed in Corral’s petition below, was whether there was a reasonable probability that, but for counsel’s errors or omissions, “the court would have found [he] was not competent” and found “his rejection of the plea was not knowing, intelligent, or voluntary.” *See supra* ¶ 3; *see also Bennett*, 213 Ariz. 562, ¶ 25, 146 P.3d. at 69.

¶7 In its decision summarily denying relief, the trial court found it would have entered the same rulings, with respect to Corral’s competency and the sentence imposed, had trial counsel presented the court with the records Corral submitted with his Rule 32 petition. Corral has failed to establish this determination was an abuse of the court’s discretion.

¶8 Corral also asserts that an expert’s affidavit—which he filed after his petition for post-conviction relief—included the opinion that Corral “did not understand the plea offer due to [his] low intelligence,” and that this opinion “presents an additional issue of material fact regarding ineffective assistance of trial counsel.” But no claim related to Corral’s cognitive abilities was included in his

STATE v. CORRAL
Decision of the Court

petition below, and we will not consider it on review. *See* Ariz. R. Crim. P. 32.9(c)(1)(ii) (petition for review limited to “issues which were decided by the trial court and which the defendant wishes to present to the appellate court for review”); *State v. Ramirez*, 126 Ariz. 464, 468, 616 P.2d 924, 928 (App. 1980); *see also* Ariz. R. Crim. P. 32.6(d) (petition may be amended only “by leave of court upon a showing of good cause”).

¶9 We find no error or abuse of discretion in the trial court’s thorough, under-advisement ruling. Because the ruling clearly identifies and resolves the issues Corral raised in a manner that any court will understand, we need not repeat that analysis here. *See State v. Whipple*, 177 Ariz. 272, 274, 866 P.2d 1358, 1360 (App. 1993). Instead, we adopt it. *See id.*

¶10 For the foregoing reasons, although we grant review, relief is denied.