

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Respondent,

v.

ANTHONY EDWARD MOORE,
Petitioner.

No. 2 CA-CR 2014-0321-PR
Filed October 24, 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NOT FOR PUBLICATION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 Yavapai County

No. P1300CV201300300

The Honorable Michael R. Bluff, Judge

REVIEW GRANTED; RELIEF DENIED

COUNSEL

Sheila Sullivan Polk, Yavapai County Attorney
By Dennis M. McGrane, Chief Deputy County Attorney, Prescott
Counsel for Respondent

Anthony Edward Moore, San Luis
In Propria Persona

STATE v. MOORE
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 Anthony Moore seeks review pursuant to Rule 32.9(c) of the trial court's order summarily dismissing his petition for writ of habeas corpus. 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). Although we grant review, we deny relief.

¶2 Moore was convicted of first-degree murder for the 1973 killing of a deputy sheriff and was sentenced to life in prison. His conviction and sentence were affirmed on appeal by our supreme court. *State v. Moore*, 111 Ariz. 355, 529 P.2d 1172 (1974). Since then, Moore unsuccessfully sought post-conviction relief on at least nine occasions.

¶3 In March 2013, Moore filed a petition for writ of habeas corpus, in which he asserted he was entitled to discovery pursuant to Rule 15.1, Ariz. R. Crim. P., in order to raise and argue various claims, including that a witness had been secretly granted immunity at his trial, that the state had tampered with the jury pool, and that the state had failed to disclose exculpatory evidence. The trial court, treating Moore's petition as yet another for post-conviction relief pursuant to Rule 32.1, *see* Ariz. R. Crim. P. 32.3, summarily denied relief, finding the claims precluded pursuant to Rule 32.2(b) because Moore had identified "no claims which have not already been fully considered."

¶4 On review, Moore insists he is entitled to discovery and an evidentiary hearing. Although a petitioner in a Rule 32 proceeding is entitled to discovery, that petitioner must first

STATE v. MOORE
Decision of the Court

establish good cause or identify a colorable claim. *Canion v. Cole*, 210 Ariz. 598, ¶¶ 10, 18, 115 P.3d 1261, 1263-64 (2005). Moore does not address the trial court's summary dismissal of his claims on the grounds of preclusion or advance any basis for concluding that ruling was incorrect or an abuse of discretion. Nor does he identify any claims that may be raised in an untimely post-conviction proceeding like this one. Ariz. R. Crim. P. 32.4(a). Thus, he cannot establish good cause to support his discovery requests.

¶5 Although review is granted, relief is denied.