

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

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THE STATE OF ARIZONA,  
*Respondent,*

*v.*

RAFAEL AYALA KEY,  
*Petitioner.*

No. 2 CA-CR 2014-0357-PR  
Filed January 16, 2015

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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NOT FOR PUBLICATION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)(1); Ariz. R. Crim. P. 31.24.*

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Petition for Review from the Superior Court in Pima County  
No. CR20101499001  
The Honorable K.C. Stanford, Judge

**REVIEW GRANTED; RELIEF DENIED**

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COUNSEL

Higgins and Higgins, P.C., Tucson  
By Harold Higgins  
*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.

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ECKERSTROM, Chief Judge:

¶1 Petitioner Rafael Key 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). Key has not sustained his burden of establishing such abuse here.

¶2 After a jury trial, Key was convicted of first-degree murder, and the trial court sentenced him to life without the possibility of release for twenty-five years. This court affirmed his conviction and sentence on appeal. *State v. Key*, No. 2 CA-CR 2011-0147 (memorandum decision filed Nov. 30, 2011).

¶3 Key initiated a proceeding for post-conviction relief, arguing in his petition that he had received ineffective assistance of trial counsel based on counsel’s failure to “challenge the legality of procedures resulting in” Key being identified by a witness or to adequately challenge the identification. After an evidentiary hearing, the trial court denied relief.

¶4 Our review of the trial court’s factual findings after an evidentiary hearing “is limited to a determination of whether those findings are clearly erroneous”; we “view the facts in the light most favorable to sustaining the lower court’s ruling, and we must resolve all reasonable inferences against the defendant.” *State v. Sasak*, 178 Ariz. 182, 186, 871 P.2d 729, 733 (App. 1993). When “the trial court’s ruling is based on substantial evidence, this court will affirm.” *Id.* “Evidence is not insubstantial merely because testimony is

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conflicting or reasonable persons may draw different conclusions from the evidence.” *Id.* Key had the burden of proving his factual allegations by a preponderance of the evidence. *See* Ariz. R. Crim. P. 32.8(c). And, the trial court was “the sole arbit[er] of the credibility of witnesses” at the evidentiary hearing. *State v. Fritz*, 157 Ariz. 139, 141, 755 P.2d 444, 446 (App. 1988); *see also Sasak*, 178 Ariz. at 186, 871 P.2d at 733 (“It is the duty of the trial court to resolve any conflicts in the evidence . . .”).

¶5 On review, Key repeats his arguments made below, and argues the trial court should not have rejected his claims. We cannot, however, say the court abused its discretion in denying Key’s petition for post-conviction relief. Its rulings were supported by substantial evidence. *See Sasak*, 178 Ariz. at 186, 871 P.2d at 733. And the court clearly and correctly identified and resolved Key’s claims in a thorough, well-reasoned minute entry, which we adopt. *See State v. Whipple*, 177 Ariz. 272, 274, 866 P.2d 1358, 1360 (App. 1993) (when trial court has correctly ruled on issues raised “in a fashion that will allow any court in the future to understand the resolution[, n]o useful purpose would be served by this court rehashing the trial court’s correct ruling in a written decision”).

¶6 Therefore, although we grant the petition for review, we deny relief.