

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Respondent,

v.

RAMON ESCOBAR-MENDEZ,
Petitioner.

No. 2 CA-CR 2015-0011-PR
Filed February 25, 2015

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NOT FOR PUBLICATION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.

Petition for Review from the Superior Court in Maricopa County

No. CR1995009679

The Honorable Pamela D. Svoboda, Judge

REVIEW GRANTED; RELIEF DENIED

Ramon Escobar-Mendez, Florence

In Propria Persona

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MEMORANDUM DECISION

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

ESPINOSA, Judge:

¶1 Petitioner Ramon Escobar-Mendez seeks review of the trial court's dismissal of his successive petition for post-conviction relief,¹ 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). We find no such abuse here.

¶2 Following a jury trial in 1997, Escobar-Mendez was convicted of two counts of sexual conduct with a minor. The trial court sentenced him to consecutive aggravated prison terms totaling twenty-eight years and we affirmed the convictions and sentences on appeal. *State v. Escobar-Mendez*, 195 Ariz. 194, 986 P.2d 227 (App. 1999). The court dismissed Escobar-Mendez's first Rule 32 proceeding, raised in November 1999. On review, this court granted relief and remanded the matter to the trial court. *State v. Escobar-Mendez*, No. 1 CA-CR 01-0155PR (memorandum decision filed Oct. 4, 2001).

¶3 Escobar-Mendez subsequently initiated seven additional post-conviction proceedings, each of which the trial court summarily dismissed. In his eighth proceeding, the one now before us on review, Escobar-Mendez asserted: the state had substantively altered the indictment by renumbering it, rendering it "null and

¹Escobar-Mendez entitled his petition "Motion for Rule 32 Post-Conviction Relief of Right."

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void”²; “counsel” had been ineffective; and, he should be resentenced “to time served.” Noting this was Escobar-Mendez’s eighth Rule 32 proceeding, the court found he had not presented any argument to support filing an untimely or successive Rule 32 petition under Rule 32.1, and thus concluded he “cannot raise this claim.” *See* Ariz. R. Crim. P. 32.4(a) (“Any notice [of post-conviction relief] not timely filed may only raise claims pursuant to Rule 32.1(d), (e), (f), (g) or (h).”).

¶4 On review, Escobar-Mendez has failed to acknowledge the trial court’s ruling or establish how it erred. Instead, he reasserts, word-for-word, his petition below. Because Escobar-Mendez has failed to demonstrate that any of his claims were excepted from preclusion, thereby permitting him to file an untimely or successive Rule 32 petition, the court did not abuse its discretion in dismissing his petition.

¶5 Accordingly, although we grant review, relief is denied.

²We note that Escobar-Mendez had previously challenged the state’s amendment to the indictment in at least two prior Rule 32 proceedings.