

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Respondent,

v.

EARL BALL,
Petitioner.

No. 2 CA-CR 2015-0040-PR
Filed March 31, 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NOT FOR PUBLICATION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 Cochise County

No. CR99000131

The Honorable Karl D. Elledge, Judge

REVIEW GRANTED; RELIEF DENIED

Earl Ball, Florence
In Propria Persona

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MEMORANDUM DECISION

Judge Vásquez authored the decision of the Court, in which Presiding Judge Kelly and Judge Miller concurred.

VÁSQUEZ, Judge:

¶1 Petitioner Earl Ball seeks review of the trial court’s order dismissing 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). Ball has not sustained his burden of establishing such abuse here.

¶2 After a jury trial, Ball was convicted of sexual conduct with a minor, and the trial court sentenced him to an aggravated, 1.5-year prison term, which it ordered to be served consecutive to sentences imposed in other cause numbers. This court affirmed his conviction and sentence on appeal. *State v. Ball*, No. 2 CA-CR 1999-0480 (memorandum decision filed Apr. 29, 2004). Ball subsequently sought post-conviction relief numerous times, and we have denied review or relief on review in at least three post-conviction relief proceedings. *See State v. Ball*, No. 2 CA-CR 2013-0011-PR (memorandum decision filed Apr. 25, 2013); *State v. Ball*, No. 2 CA-CR 2004-0355-PR (decision order filed July 29, 2005); *State v. Ball*, No. 2 CA-CR 2005-0025-PR (decision order filed July 13, 2005).

¶3 In October 2014, Ball filed another petition pursuant to Rule 32 in which he contended the trial court violated the rule set forth in *Boykin v. Alabama*, 395 U.S. 238 (1969), and his trial counsel was ineffective. The trial court summarily dismissed the petition, concluding Ball’s claims were precluded. The court also denied Ball’s subsequent motion for rehearing.

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¶4 On review, Ball repeats his arguments nearly verbatim. In an untimely, successive proceeding such as this one, a defendant may only raise claims pursuant to Rule 32.1(d), (e), (f), (g), or (h). *See* Ariz. R. Crim. P. 32.2(b), 32.4(a). Ball's claims arise under Rule 32.1(a), and we therefore agree with the trial court that they are precluded and time barred. Ball has not established an applicable exception to the rules of preclusion.

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