

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

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THE STATE OF ARIZONA,  
*Respondent,*

*v.*

HOWARD JOHN TEETERS JR.,  
*Petitioner.*

No. 2 CA-CR 2015-0159-PR  
Filed August 18, 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NOT FOR PUBLICATION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. CR20122922001

The Honorable Howard Fell, Judge Pro Tempore

**REVIEW GRANTED; RELIEF DENIED**

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COUNSEL

Barbara LaWall, Pima County Attorney  
By Jacob R. Lines, Deputy County Attorney, Tucson  
*Counsel for Respondent*

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Howard Teeters, Florence  
*In Propria Persona*

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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 Howard Teeters 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). Teeters has not sustained his burden of establishing such abuse here.

¶2 Pursuant to a plea agreement, Teeters was convicted of aggravated assault causing serious physical injury, a domestic violence offense. The trial court imposed an aggravated, five-year term of imprisonment with 354 days of presentence incarceration credit, to be served concurrently with the 2.5-year sentence in another matter.

¶3 Teeters then sought post-conviction relief, and appointed counsel filed a notice stating she had reviewed the record and was unable to find any "colorable claims pursuant to Rule 32." In a supplemental pro se petition, however, Teeters asked that he be permitted to withdraw from the guilty plea, asserting he had received ineffective assistance of trial and Rule 32 counsel based, in part, on a significant change in the law, and that there was newly discovered evidence that rendered his sentence "illegal."

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¶4 On review, Teeters maintains he was entitled to an evidentiary hearing. He asserts trial counsel<sup>1</sup> was ineffective for the following reasons: failing to show him the plea agreement before the change-of-plea hearing, even though he had discussed it with him the day before the hearing; failing to investigate and show the trial court an electronic message, purportedly sent to Teeters's son by the victim,<sup>2</sup> proving Teeters did not "hit" the victim and thus did not cause her injuries; and, failing to file a motion to dismiss based on the exculpatory contents of the electronic message.

¶5 The trial court properly identified the claims Teeters had raised and resolved them correctly "in a fashion that will allow any court in the future to understand the resolution." *State v. Whipple*, 177 Ariz. 272, 274, 866 P.2d 1358, 1360 (App. 1993). We therefore need not repeat the court's decision in full, but rather adopt it as to these arguments. *See id.*

¶6 Teeters also appears to reassert on review that there was a significant change in the law establishing trial counsel was ineffective and that a twenty-four page letter written by the victim is newly discovered, exculpatory evidence proving his sentence is illegal. However, other than a general reference to these two arguments, Teeters does not explain why the trial court abused its

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<sup>1</sup>Although Teeters suggests on review that Rule 32 counsel was also ineffective, we do not address this argument. Other than a cursory reference to such a claim, Teeters does not provide any argument to support it. *See State v. Bolton*, 182 Ariz. 290, 298, 896 P.2d 830, 838 (1995) (insufficient argument waives claim on review).

<sup>2</sup>As the trial court noted, the electronic message, which Teeters referred to as a "verified" message in his petition below, did not include "the sender's or recipient's email address, the date or time the email was sent, or any other markers to suggest that it was sent" to Teeters's son by the victim. Additionally, we do not consider the affidavit Teeters has attached as an exhibit to his petition for review in support of this argument; the affidavit, dated April 3, 2015, after the court denied Teeters's Rule 32 petition on March 17, 2015, was not presented to the court.

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discretion by denying them below, and we thus do not consider them. *See* Ariz. R. Crim. P. 32.9(c)(1)(iv) (petition for review shall contain “reasons why the petition should be granted”). Finally, to the extent Teeters maintains that the court abused its discretion by failing to address each of the twenty-four cases he cited in his Rule 32 petition, we note that the court was not required to do so, *see* Rule 32.6(c), and we thus reject this unsupported argument.

¶7 Accordingly, we grant the petition for review, but deny relief.