

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

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THE STATE OF ARIZONA,  
*Respondent,*

*v.*

THOMAS ORVILLE BASTIAN,  
*Petitioner.*

No. 2 CA-CR 2015-0215-PR  
Filed July 23, 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NOT FOR PUBLICATION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 Maricopa County

No. CR2007124159003DT

The Honorable Arthur T. Anderson, Judge

**REVIEW GRANTED; RELIEF DENIED**

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Thomas Bastian, Buckeye  
*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.

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ESPINOSA, Judge:

¶1 Petitioner Thomas Bastian was convicted after a jury trial of first-degree murder and sentenced to a natural life term of imprisonment. This court affirmed the conviction and sentence on appeal, and the trial court denied relief in two post-conviction proceedings Bastian brought pursuant to Rule 32, Ariz. R. Crim. P. In this petition for review, he contends the trial court erred in dismissing his subsequent notice of post-conviction relief. Although we grant review, because Bastian has not sustained his burden of establishing the trial court abused its discretion, we deny relief. *See State v. Swoopes*, 216 Ariz. 390, ¶ 4, 166 P.3d 945, 948 (App. 2007).

¶2 The trial court denied Bastian relief in April 2013 after he filed his first notice and petition for post-conviction relief raising claims of ineffective assistance of trial, appellate, and Rule 32 counsel. Bastian filed a second notice of post-conviction relief in May 2013. Relying, in part, on Rule 32.4(a), the court dismissed that notice in July, finding it did not identify claims that may be raised in a successive and untimely proceeding; the court also rejected Bastian's argument that the untimeliness of the notice should be excused pursuant to Rule 32.1(f). The court thereafter denied Bastian's motion for reconsideration.

¶3 Bastian filed this, his third notice of post-conviction relief in October 2013, and the trial court dismissed it in December. In its ruling, the court identified the claims Bastian stated he wished to raise and concluded none was permissible in a successive and untimely notice. With respect to the claim of ineffective assistance of Rule 32 counsel, the court correctly found that as a non-pleading defendant, Bastian had no such claim to raise. *See State v. Escareno-*

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*Meraz*, 232 Ariz. 586, ¶ 4, 307 P.3d 1013, 1014 (App. 2013). Bastian has not sustained his burden on review of establishing the court abused its discretion. And, because the court's ruling is correct, we adopt it, as no purpose would be served by restating the court's ruling in its entirety here. See *State v. Whipple*, 177 Ariz. 272, 274, 866 P.2d 1358, 1360 (App. 1993) (when trial court correctly rules on issues "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" its analysis).

¶4 Bastian's petition for review is granted but relief is denied.