

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Respondent,

v.

RAYMOND MENDEZ GONZALES JR.,
Petitioner.

No. 2 CA-CR 2015-0313-PR
Filed November 10, 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NOT FOR PUBLICATION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
Nos. CR2011157853004DT and CR2012145495001DT
The Honorable Brian D. Kaiser, Judge Pro Tempore

REVIEW GRANTED; RELIEF DENIED

COUNSEL

William G. Montgomery, Maricopa County Attorney
By Lisa Marie Martin, Deputy County Attorney
Counsel for Respondent

Raymond Mendez Gonzales Jr., 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 Raymond Gonzales Jr. 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). Gonzales has not sustained his burden of establishing such abuse here.

¶2 Pursuant to a plea agreement, Gonzales was convicted of weapons misconduct and possession of dangerous drugs in one cause and of third-degree burglary in another cause. The trial court imposed a combination of enhanced, presumptive and aggravated, concurrent and consecutive prison terms totaling 10.5 years.

¶3 Gonzales initiated a proceeding for post-conviction relief, and appointed counsel filed a notice stating he had reviewed the record and was "unable to find any claims for relief to be raised in post-conviction relief proceedings." In a supplemental, pro se petition, however, Gonzales argued he had received ineffective assistance of counsel because trial counsel advised him to reject an initial five-year plea offer and then pressured him "to plead guilty with the false promise of guaranteed concurrent sentences." He also claimed counsel was ineffective in "failing to present mitigation evidence to the sentencing court to secure concurrent sentences." The trial court summarily denied relief.

¶4 On review, Gonzales claims the trial court abused its discretion in denying his petition without a hearing and raises additional factual claims about what his counsel told him. We

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cannot say the court abused its discretion in denying Gonzales's petition for post-conviction relief. The court clearly identified the claims he had raised and resolved them correctly in a thorough, well-reasoned minute entry that identified how the record contradicted Gonzales's factual claims. We adopt the ruling. *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"). To state a colorable claim, Gonzales must do more than simply contradict what the record plainly shows. *See State v. Jenkins*, 193 Ariz. 115, ¶ 15, 970 P.2d 947, 952 (App. 1998) (claim not colorable when "directly contradicted by the record"). He has not done so.

¶5 Although we grant the petition for review, relief is denied.