

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Respondent,

v.

LESLEY KAISER,
Petitioner.

No. 2 CA-CR 2015-0476-PR
Filed May 18, 2016

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NOT FOR PUBLICATION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 Pima County
No. CR20131990001
The Honorable Kenneth Lee, Judge

REVIEW GRANTED; RELIEF DENIED

COUNSEL

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

Lesley Kaiser, Tucson
In Propria Persona

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MEMORANDUM DECISION

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

ECKERSTROM, Chief Judge:

¶1 Petitioner Lesley Kaiser 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). Kaiser has not sustained his burden of establishing such abuse here.

¶2 After a jury trial, Kaiser was convicted of unlawful discharge of a firearm within city limits, disorderly conduct, and possession of a deadly weapon by a prohibited possessor. The trial court sentenced him to presumptive, concurrent terms of imprisonment, the longest of which was ten years. This court affirmed his convictions and sentences on appeal. *State v. Kaiser*, No. 2 CA-CR 2014-0232 (memorandum decision filed June 9, 2015).

¶3 On December 2, 2015, more than thirty days after this court issued its mandate on appeal on August 11, 2015, Kaiser filed a form “petition for post-conviction relief.” See Ariz. R. Crim. P. 32.4(a) (to be timely, notice must be filed within thirty days of mandate). On the form Kaiser indicated he was eligible for relief based on the improper admission of evidence at trial, unconstitutional suppression of evidence and use of perjured testimony by the state, violation of the prohibition against double jeopardy and other constitutional rights, existence of newly-discovered evidence, lack of jurisdiction of the court, and sentencing error. The trial court summarily dismissed the petition, concluding Kaiser had failed to file a timely notice of post-conviction relief.

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¶4 On review, to the extent we understand his claims, Kaiser argues, *inter alia*, his Fourth Amendment rights and rights against being twice placed in jeopardy were violated, he was improperly sentenced, and the evidence was insufficient to support his convictions. He has not, however, addressed the trial court's conclusion that the proceeding was untimely, or explained how his claims are exempt from preclusion based on untimeliness or his failure to raise them on appeal. *See* Ariz. R. Crim. P. 32.2(a), 32.4(a). We therefore cannot say the court abused its discretion in dismissing the petition, based on Kaiser's failure to present a claim raisable in an untimely proceeding or to explain why his claims had not been raised in a timely manner. *See* Ariz. R. Crim. P. 32.2(b).

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