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JUNE - 7 2007
COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

THE STATE OF ARIZONA,	)	
	)	2 CA-CR 2007-0063-PR
Respondent,	)	DEPARTMENT A
	)	
v.	)	MEMORANDUM DECISION
	)	Not for Publication
BILLY JOE SMITH,	)	Rule 111, Rules of
	)	the Supreme Court
Petitioner.	)	
	)	

PETITION FOR REVIEW FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR-20042184

Honorable Christopher C. Browning, Judge

REVIEW GRANTED; RELIEF DENIED

DiCampli & Elsberry, L.L.C.
By Anne Elsberry — Tucson
Attorneys for Petitioner

P E L A N D E R, Chief Judge.

¶1 After a jury trial, petitioner Billy Joe Smith was convicted of two counts of offering to sell a narcotic drug and was sentenced to concurrent, enhanced, mitigated and presumptive prison terms, the longest of which was 15.75 years. Smith appealed his convictions and sentences and argued, inter alia, that the trial court erred in admitting into

evidence a Department of Corrections packet reflecting his criminal history to prove that he had prior felony convictions. We affirmed his convictions and sentences. *State v. Smith*, No. 2 CA-CR 2005-0146 (memorandum decision filed Dec. 22, 2005).

¶2 Smith then filed a notice of post-conviction relief pursuant to Rule 32, Ariz. R. Crim. P., 17 A.R.S., and in his post-conviction petition argued that trial counsel was ineffective for failing to raise all appropriate objections to admission of the packet. The trial court denied relief, finding that trial counsel's performance did not fall below objectively reasonable standards and that Smith had failed to show prejudice. *See Strickland v. Washington*, 466 U.S. 668, 687, 104 S. Ct. 2052, 2064 (1984). The court noted that certified copies of the sentencing minute entries in Smith's prior cases had also been admitted into evidence and concluded that "Petitioner cannot in good faith argue that but for the admission of the [packet], a reasonable jury would not have found adequate evidence proving Petitioner's prior convictions." This petition for review followed.

¶3 We review a trial court's ruling on a petition for post-conviction relief only for an abuse of the court's discretion. *State v. Watton*, 164 Ariz. 323, 325, 793 P.2d 80, 82 (1990). The petition for review Smith filed in this court is a virtually verbatim recitation of the argument he presented in his petition for post-conviction relief, and Smith fails to explain why he believes the trial court's ruling is legally or factually incorrect. Indeed, the trial court's order clearly identified Smith's argument and correctly ruled upon it "in a fashion that [allows this court and] any court in the future to understand the resolution."

State v. Whipple, 177 Ariz. 272, 274, 866 P.2d 1358, 1360 (App. 1993). We adopt that order and need not repeat the court's reasoning here. *See id*.

¶4 Although we grant the petition for review, we deny relief.

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JOHN PELANDER, Chief Judge

CONCURRING:

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JOSEPH W. HOWARD, Presiding Judge

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GARYE L. VÁSQUEZ, Judge