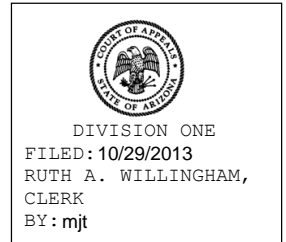


NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED  
EXCEPT AS AUTHORIZED BY APPLICABLE RULES.  
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);  
Ariz. R. Crim. P. 31.24



IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION ONE

STATE OF ARIZONA, ) 1 CA-CR 12-0629-PR  
)  
Respondent, ) DEPARTMENT E  
)  
v. ) **MEMORANDUM DECISION**  
)  
ALI ALTAMIMI, ) (Not for Publication -  
) Rule 111, Rules of the  
Petitioner. ) Arizona Supreme Court)  
)

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Petition for Review from the Superior Court of Maricopa County

Cause No. CR2001-010665

The Honorable Harriett E. Chavez, Judge

**REVIEW GRANTED; RELIEF DENIED**

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Ali Altamimi  
*Pro Se*

San Luis

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**PER CURIAM**

¶1 A jury convicted petitioner Ali Altamimi of first degree murder and theft in 2001. The trial court sentenced him to imprisonment for life without a possibility of release for 25 years for murder and a concurrent term of 3.5 years' imprisonment for theft. We affirmed his convictions and sentences on direct appeal in *State v. Altamimi*, 1 CA-CR 02-0106

(Ariz. App. June 10, 2003). Altamimi now seeks review of the summary dismissal of his latest successive petition for post-conviction relief. We review the summary dismissal of a petition for post-conviction relief for abuse of discretion. *State v. Watton*, 164 Ariz. 323, 325, 793 P.2d 80, 82 (1990). We have jurisdiction pursuant to Arizona Rule of Criminal Procedure 32.9(c).

¶12 In his petition for review, Altamimi presents claims of ineffective assistance of counsel who represented him in his first post-conviction relief proceeding in 2003, as well as numerous claims of ineffective assistance of a paralegal employed by the Department of Corrections. Altamimi argues the recent United States Supreme Court case of *Martinez v. Ryan*, 132 S. Ct. 1309 (2012), constitutes a significant change in the law that allows him to raise untimely claims of ineffective assistance of counsel.

¶13 We deny relief. Altamimi could have raised these claims in a prior post-conviction relief proceeding. Any claim a defendant could have raised in an earlier post-conviction relief proceeding is precluded. Ariz. R. Crim. P. 32.2(a). None of the exceptions under Rule 32.2(b) apply, and *Martinez* does not provide otherwise. *Martinez* held, "where, under state law, claims of ineffective assistance of trial counsel must be raised in an initial-review collateral proceeding, a procedural

default will not bar a federal habeas court from hearing a substantial claim of ineffective assistance at trial if, in the initial-review collateral proceeding, there was no counsel or counsel in that proceeding was ineffective." 132 S. Ct. at 1320. This simply means Altamimi can seek habeas corpus relief in federal court based on ineffective assistance of trial counsel if he can meet either of the prerequisites identified in *Martinez*. *Martinez* does not require a state court to consider all untimely claims of ineffective assistance of counsel raised in post-conviction proceedings. Finally, ineffective assistance of a paralegal is not a cognizable claim under Rule 32.

¶4 While the petition for review presents other issues, Altamimi did not raise those issues in the petition for post-conviction relief he filed below. A petition for review may not present issues not first presented to the trial court. *State v. Bortz*, 169 Ariz. 575, 577, 821 P.2d 236, 238 (App. 1991); see also Ariz. R. Crim. P. 32.9(c)(1)(ii).

¶5 We grant review and deny relief.

/s/

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LAWRENCE F. WINTHROP,  
Presiding Judge

/s/

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MARGARET H. DOWNIE, Judge

/s/

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JON W. THOMPSON, Judge