

NOTICE: NOT FOR PUBLICATION.
UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION DOES NOT CREATE
LEGAL PRECEDENT AND MAY NOT BE CITED EXCEPT AS AUTHORIZED.

IN THE
ARIZONA COURT OF APPEALS
DIVISION ONE

STATE OF ARIZONA, *Respondent*,

v.

ARVIN PRASAD, *Petitioner*.

No. 1 CA-CR 13-0246 PRPC
FILED 09-18-2014

Petition for Review from the Superior Court in Maricopa County
No. CR2009-141535-001
The Honorable Bruce R. Cohen, Judge

REVIEW GRANTED; RELIEF DENIED

COUNSEL

Maricopa County Attorney's Attorney Office, Phoenix
By Diane Meloche
Counsel for Respondent

Arvin Prasad, Florence
Petitioner

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MEMORANDUM DECISION

Judge Andrew W. Gould delivered the decision of the Court, in which Presiding Judge Margaret H. Downie and Judge Samuel A. Thumma joined.

G O U L D, Judge:

¶1 Petitioner Arvin Prasad petitions this court for review from the dismissal of his notice of post-conviction relief. We have considered the petition for review and, for the reasons stated, grant review and deny relief.

¶2 A jury convicted Prasad of contributing to the delinquency of a child, sexual assault, kidnapping, unlawful imprisonment, false reporting to a law enforcement agency, and assault. The trial court sentenced Prasad to an aggregate term of fourteen years' imprisonment followed by seven years' probation and we affirmed his convictions and sentences on direct appeal. *State v. Prasad*, 1 CA-CR 10-0186 (Ariz. App. Jul. 31, 2012). Prasad filed a timely notice of post-conviction relief, but his counsel found there were no colorable claims. The trial court then gave Prasad forty-five days to file a pro per petition. Rather than file a petition for post-conviction relief, Prasad chose to file various motions, including motions to reconstruct the record based on Prasad's personal belief that unidentified portions of the trial transcript were incorrect for unidentified reasons and/or were missing. In the ensuing months, Prasad never filed a petition for post-conviction relief and the trial court eventually dismissed the proceedings. Prasad now seeks review. We have jurisdiction pursuant to Arizona Rule of Criminal Procedure 32.9(c).

¶3 Prasad argues the trial court should have granted his motions to reconstruct the record. We deny relief because reconstruction of the record is not a cognizable ground for relief pursuant to Rule 32.1 and the denial of a motion to reconstruct is not reviewable pursuant to Rule 32.9. While the petition for review presents additional issues, Prasad did not raise those issues 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); Ariz. R. Crim. P. 32.9(c)(1)(ii).

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¶4

We grant review and deny relief.



Ruth A. Willingham · Clerk of the Court
FILED : gsh