

NOTICE: NOT FOR OFFICIAL PUBLICATION.
UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL
AND MAY BE CITED ONLY AS AUTHORIZED BY RULE.

IN THE
ARIZONA COURT OF APPEALS
DIVISION ONE

STATE OF ARIZONA, *Respondent*,

v.

FRANK SILVA ROQUE, *Petitioner*.

No. 1 CA-CR 14-0729 PRPC
FILED 11-15-2016

Petition for Review from the Superior Court in Maricopa County
No. CR 2001-095385
The Honorable Mark F. Aceto, Retired Judge

REVIEW GRANTED; RELIEF DENIED

COUNSEL

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

Frank Silva Roque, Buckeye
Petitioner

MEMORANDUM DECISION

Presiding Judge Kenton D. Jones delivered the decision of the Court, in
which Judge Randall M. Howe and Judge Donn Kessler joined.

STATE v. ROQUE
Decision of the Court

JONES, Judge:

¶1 Petitioner Frank Silva Roque petitions this court for review from the summary dismissal of the latest of his many successive notices of post-conviction relief. We deny relief because the claims Roque presents for review are claims he raised in his previous post-conviction relief proceeding.¹ Roque also concedes his appellate counsel raised the underlying claims regarding the State's failure to disclose and prosecutorial misconduct on direct appeal in 2006. Any claim a defendant raised or could have raised on direct appeal or in an earlier post-conviction relief proceeding is precluded. *See* Ariz. R. Crim. P. 32.2(a). None of the exceptions under Rule 32.2(b) apply.

¶2 We grant review but deny relief.



AMY M. WOOD • Clerk of the Court
FILED: AA

¹ While this is not one of the grounds upon which the trial court dismissed the petition, we may affirm a result on any basis supported by the record. *State v. Robinson*, 153 Ariz. 191, 199 (1987) (citation omitted).