

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL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.

JUAN AURELIO SANCHEZ, *Petitioner*.

No. 1 CA-CR 15-0573 PRPC
FILED 6-20-2017

Petition for Review from the Superior Court in Maricopa County
No. CR2009-144687-001 DT
The Honorable Peter C. Reinstein, Judge

REVIEW GRANTED; RELIEF DENIED

COUNSEL

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

Juan Aurelio Sanchez, Florence
Petitioner

MEMORANDUM DECISION

Judge James P. Beene delivered the decision of the Court, in which Presiding Judge Samuel A. Thumma and Judge Lawrence F. Winthrop joined.

B E E N E, Judge:

¶1 Petitioner Juan Aurelio Sanchez petitions this court for review from the summary dismissal of his second notice of post-conviction relief. We have considered the petition for review and, for the reasons stated, grant review but deny relief.

¶2 A jury found Sanchez guilty of second degree murder in 2010. The trial court sentenced him to twenty-two years' imprisonment and this court affirmed his conviction and sentence on direct appeal. The trial court summarily dismissed Sanchez's first petition for post-conviction relief in June 2014. Sanchez did not seek review of that dismissal.

¶3 In May 2015, Sanchez filed his second notice of post-conviction relief and argued that his first post-conviction relief counsel was ineffective when counsel failed to provide Sanchez a copy of the minute entry that dismissed the first post-conviction relief proceeding. Sanchez argues this failure caused him to miss the thirty-day deadline to file a timely *pro se* petition for review pursuant to Arizona Rule of Criminal Procedure 32.9(c). The trial court summarily dismissed the notice and Sanchez now presents the same claims on review.

¶4 We deny relief. Ineffective assistance of post-conviction relief counsel is not a valid claim under Rule 32 unless made against counsel who provided representation in an "of-right" post-conviction relief proceeding. *State v. Pruett*, 185 Ariz. 128, 131, 912 P.2d 1357, 1360 (App. 1995). Because Sanchez's conviction resulted from a jury trial, Sanchez's first post-conviction relief proceeding was not an "of-right" proceeding. Ariz. R. Crim. P. 32.1. Further, Rule 32.1(f) allows a defendant to seek post-conviction relief if the "failure to file a notice of post-conviction relief of-right or notice of appeal within the prescribed time was without fault on the defendant's part[.]" Ariz. R. Crim. P. 32.1(f). Sanchez failed to file a timely petition for review, not a notice of post-conviction relief of-right or a notice of appeal. Therefore, Rule 32.1(f) affords him no relief.

STATE v. SANCHEZ
Decision of the Court

¶5

We grant review but deny relief.



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