

IN THE  
**ARIZONA COURT OF APPEALS**  
DIVISION TWO

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THE STATE OF ARIZONA,  
*Respondent,*

*v.*

VICTOR LIRA,  
*Petitioner.*

No. 2 CA-CR 2015-0443-PR  
Filed April 13, 2016

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THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND  
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.  
NOT FOR PUBLICATION  
*See Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Crim. P. 31.24.*

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Petition for Review from the Superior Court in Pinal County  
No. S1100CR200701464  
The Honorable Stephen F. McCarville, Judge

**REVIEW GRANTED; RELIEF DENIED**

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COUNSEL

M. Lando Voyles, Pinal County Attorney  
By Janina N. Walters, Deputy County Attorney, Florence  
*Counsel for Respondent*

Victor Lira, Eloy  
*In Propria Persona*

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**MEMORANDUM DECISION**

Judge Staring authored the decision of the Court, in which Presiding Judge Howard and Judge Espinosa concurred.

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STARING, Judge:

¶1 Petitioner Victor Lira seeks review of the trial court’s order denying his petition for post-conviction relief, filed pursuant to Rule 32, Ariz. R. Crim. P. “We will not disturb a trial court’s ruling on a petition for post-conviction relief absent a clear abuse of discretion.” *State v. Swoopes*, 216 Ariz. 390, ¶ 4, 166 P.3d 945, 948 (App. 2007). Lira has not sustained his burden of establishing such abuse here.

¶2 Pursuant to a plea agreement, Lira was convicted of manslaughter, and the trial court sentenced him to nineteen years’ imprisonment. Lira sought and was denied post-conviction relief, and this court denied relief on his subsequent petition for review. *State v. Lira*, No. 2 CA-CR 2009-0236-PR (memorandum decision filed Mar. 10, 2010).

¶3 In December 2014, Lira filed another notice of and petition for post-conviction relief, arguing in his petition that his trial counsel was ineffective “by requiring [him] to submit to a guilty plea when [he] is actually innocent” and claiming another person had committed the offense. He also argued Rule 32 counsel had been ineffective in failing to present his claim of actual innocence. The trial court summarily denied relief, concluding Lira’s claims were precluded and that he had “not satisfied any exception that would allow him to raise the issues set forth in his petition” in a successive, untimely proceeding.

¶4 On review, Lira repeats his claims and argues “[t]he trial court refused to acknowledge or apply Rule 32.1(h) to [his] claim of actual innocence as an exception to” preclusion. We disagree. The court determined Lira had failed to meet the

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requirement set forth in Rule 32.2(b) that a defendant in a successive or untimely proceeding “must set forth . . . the reasons for not raising [a] claim . . . in a timely manner.” Likewise it noted that Lira’s claims had been addressed in the previous proceeding. Indeed, although now couched as a claim of actual innocence, Lira raised the same claims in his previous proceeding as a challenge to the sufficiency of the factual basis of his plea.<sup>1</sup> *Lira*, No. 2 CA-CR 2009-0236-PR. Having addressed and rejected these claims once, we will not do so again. *See State v. Little*, 87 Ariz. 295, 304, 350 P.2d 756, 761-62 (1960) (doctrine of res judicata generally applies in criminal cases).

¶5 The trial court clearly and correctly identified and addressed the claims Lira raised; we therefore adopt that ruling and do not address his claims further. *See State v. Whipple*, 177 Ariz. 272, 274, 866 P.2d 1358, 1360 (App. 1993) (when trial court has correctly ruled on issues raised “in a fashion that will allow any court in the future to understand the resolution[, n]o useful purpose would be served by this court rehashing the trial court’s correct ruling in a written decision”).

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

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<sup>1</sup>A guilty plea generally precludes a claim of innocence. *See State v. Norgard*, 92 Ariz. 313, 315, 376 P.2d 776, 778 (1962) (characterizing as “frivolous” motion to withdraw from plea when “the only basis given . . . was that the defendant apparently changed his mind and claimed to be innocent”). But a defendant may claim pursuant to Rule 32 that the factual basis for a guilty plea was insufficient as a matter of law. *See, e.g., State v. Johnson*, 181 Ariz. 346, 348-51, 890 P.2d 641, 643-46 (App. 1995). Recognizing that the factual basis for a plea need only provide strong evidence of guilt and not proof beyond a reasonable doubt, *see State v. Salinas*, 181 Ariz. 104, 106, 887 P.2d 985, 987 (1994), we assume without deciding that such a claim may be raised pursuant to Rule 32.1(h).