

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Respondent,

v.

JIMMY EDWARD ESTELL JR.,
Petitioner.

No. 2 CA-CR 2015-0451-PR
Filed January 29, 2016

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NOT FOR PUBLICATION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.

Petition for Review from the Superior Court in Maricopa County
No. CR2011117395001DT
The Honorable Edward Bassett, Judge

REVIEW GRANTED; RELIEF DENIED

COUNSEL

William G. Montgomery, Maricopa County Attorney
By Robert E. Prather, Deputy County Attorney, Phoenix
Counsel for Respondent

Jimmy Estell, San Luis
In Propria Persona

STATE v. ESTELL
Decision of the Court

MEMORANDUM DECISION

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

STARING, Judge:

¶1 Jimmy Estell Jr. seeks review of the trial court's order summarily dismissing his petition for post-conviction relief filed pursuant to Rule 32, Ariz. R. Crim. P. We will not disturb that order unless the court clearly abused its discretion. *State v. Swoopes*, 216 Ariz. 390, ¶ 4, 166 P.3d 945, 948 (App. 2007). Estell has not met his burden of demonstrating such abuse here.

¶2 After a jury trial, Estell was convicted of misconduct involving weapons and sentenced to a ten-year prison term. His convictions and sentences were affirmed on appeal. *State v. Estell*, No. 1 CA-CR 11-0846 (memorandum decision filed Dec. 11, 2012). Estell sought post-conviction relief, and appointed counsel filed a notice stating she had reviewed the record but found no claims to raise in a Rule 32 proceeding. Estell then filed a pro se petition arguing his trial counsel had been ineffective during closing argument because he had stated Estell was "a bad guy" and relayed that colleagues at the public defender's office had predicted Estell would be convicted based on a recording of a telephone conversation in which Estell made inculpatory statements. The trial court summarily dismissed the petition, concluding counsel's remarks were the result of an appropriate effort to minimize harmful evidence against Estell. This petition for review followed.

¶3 On review, Estell merely repeats the arguments made below. He does not meaningfully address the trial court's determination that counsel's decisions had a valid tactical basis and, thus, cannot support a claim of ineffective assistance. "[W]e must presume 'counsel's conduct falls within the wide range of reasonable professional assistance' that 'might be considered sound

STATE v. ESTELL
Decision of the Court

trial strategy.’” *State v. Denz*, 232 Ariz. 441, ¶ 7, 306 P.3d 98, 101 (App. 2013), quoting *Strickland v. Washington*, 466 U.S. 668, 689 (1984). And “[d]isagreements as to trial strategy . . . will not support a claim of ineffective assistance of counsel as long as the challenged conduct could have some reasoned basis.” *State v. Meeker*, 143 Ariz. 256, 260, 693 P.2d 911, 915 (1984). After reviewing the available record, we conclude the court correctly rejected Estell’s claim in its well-reasoned minute entry, which we accordingly adopt. See *State v. Whipple*, 177 Ariz. 272, 274, 866 P.2d 1358, 1360 (App. 1993) (when trial court 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”).

¶4 We grant review but deny relief.