

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Respondent,

v.

EDWARD ALLEN MCINTIRE,
Petitioner.

No. 2 CA-CR 2016-0048-PR
Filed June 15, 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NOT FOR PUBLICATION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 Pima County

No. CR20113031001

The Honorable Howard Fell, Judge Pro Tempore

REVIEW DENIED

Edward A. McIntire, Florence
In Propria Persona

STATE v. MCINTIRE
Decision of the Court

MEMORANDUM DECISION

Chief Judge Eckerstrom authored the decision of the Court, in which Presiding Judge Vásquez and Judge Miller concurred.

ECKERSTROM, Chief Judge:

¶1 Edward McIntire seeks review of the trial court’s order denying his motion for rehearing on its denial of his “motion for correction.” We deny review.

¶2 In 2012, McIntire pled guilty to two counts of burglary in the third degree, and the trial court sentenced him to consecutive, presumptive sentences totaling seven years with 235 days of presentence incarceration credit, and ordered him to pay restitution. In September 2014, McIntire filed a letter with the court, asserting the Department of Corrections (DOC) was improperly making his ordered restitution payments from monies deposited by family members into his prison account, rather than solely using his earnings to make the payments. The court informed McIntire it had no authority over the DOC “and how monies are dispersed towards restitution,” and directed him to address his concern to the DOC. In November 2015, McIntire filed a “Motion for Correction,” raising the same issue. The court denied that motion, explaining that under A.R.S. §§ 13-603(C) and 31-230(C), the DOC is authorized to withdraw restitution from his prison account. The court subsequently denied McIntire’s motion for rehearing, purportedly filed pursuant to Rule 32.9(a), Ariz. R. Crim. P. This petition for review followed.

¶3 On review, McIntire asks that we “correct[]” the trial court’s denial of his motion for rehearing. We initially note that it does not appear the court construed McIntire’s claim as seeking Rule 32 relief. In fact, other than a passing reference to Rule 32.9(a) in his motion for rehearing, it does not appear McIntire raised this claim pursuant to Rule 32. Moreover, McIntire’s claim is not cognizable

STATE v. MCINTIRE
Decision of the Court

under Rule 32 because it does not implicate his conviction or sentence or even the amount of restitution. Rather, his claim concerns only the withdrawal of funds from his inmate spending account. *See* Ariz. R. Crim. P. 32.1. We therefore deny review.