

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

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THE STATE OF ARIZONA,  
*Respondent,*

*v.*

TREVONE DEBRAE TAYLOR,  
*Petitioner.*

No. 2 CA-CR 2016-0119-PR  
Filed May 31, 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NOT FOR PUBLICATION  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 Maricopa County  
No. CR2008152607001DT  
The Honorable Michael W. Kemp, Judge

**REVIEW GRANTED; RELIEF DENIED**

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Trevone D. Taylor, Kingman  
*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 Trevone Taylor seeks review of the trial court's order summarily dismissing his successive and untimely 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. *See State v. Swoopes*, 216 Ariz. 390, ¶ 4, 166 P.3d 945, 948 (App. 2007). Taylor has not met his burden of demonstrating such abuse here.

¶2 After a jury trial, Taylor was convicted of aggravated assault and two counts of first-degree burglary. As part of the same proceeding, Taylor also pled guilty to threatening and intimidating. The trial court sentenced him to concurrent and consecutive sentences totaling nineteen years. On appeal, we vacated the sentence imposed for one of Taylor's convictions of first-degree burglary and remanded the case for resentencing on that count; we otherwise affirmed his convictions and sentences. *State v. Taylor*, No. 1 CA-CR 10-0015 (memorandum decision filed May 31, 2011). On remand, the trial court imposed the same sentence. We affirmed that sentence on appeal. *State v. Taylor*, No. 1 CA-CR 12-0156 (memorandum decision filed Nov. 1, 2012).

¶3 Before this proceeding, Taylor has sought post-conviction relief on at least five occasions. In his first proceeding, appointed counsel filed a notice stating she had reviewed the record but found no colorable claims to raise pursuant to Rule 32. The trial court dismissed that proceeding when Taylor failed to file a pro se petition within the time allowed. Taylor did not seek review of that order. In the next four proceedings, Taylor raised various claims, including that his consecutive sentences were improper and that counsel had been ineffective for failing to raise that issue. The court

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summarily dismissed each proceeding, and Taylor did not seek review of those orders.

¶4 In May 2014, Taylor filed a petition for post-conviction relief arguing his Rule 32 counsel was ineffective for failing to raise a claim that his trial counsel was ineffective related to his sentences. Citing Rule 32.1(g) and *Martinez v. Ryan*, \_\_\_ U.S. \_\_\_, 132 S. Ct. 1309 (2012), he argued *Martinez* constituted a significant change in the law permitting him to raise a claim of ineffective assistance of Rule 32 counsel. The trial court summarily dismissed the petition, and this petition for review followed.

¶5 On review, Taylor repeats his argument that, pursuant to *Martinez*, he is entitled to raise a claim that his Rule 32 counsel was ineffective. In *Martinez*, the Supreme Court determined that, as a matter of equity, a non-pleading defendant may be able to obtain federal habeas review of a claim that is procedurally barred if he can show ineffective assistance of his first post-conviction counsel. \_\_\_ U.S. at \_\_\_, 132 S. Ct. at 1319-20. As we explained in *State v. Escareno-Meraz*, that holding does not apply to Arizona post-conviction proceedings. 232 Ariz. 586, ¶¶ 4-6, 307 P.3d 1013, 1014 (App. 2013). Non-pleading defendants like Taylor “have no constitutional right to counsel in post-conviction proceedings” and his claim is not cognizable under Rule 32.<sup>1</sup> *Id.* ¶ 4. And Taylor’s underlying claims cannot be raised in this untimely proceeding. Ariz. R. Crim. P. 32.4(a). Thus, the court did not err in summarily dismissing his most-recent petition.

¶6 We grant review but deny relief.

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<sup>1</sup>Taylor does not suggest his Rule 32 counsel was ineffective in any way related to his guilty plea for threatening and intimidating and any such claim could not, in any event, be raised in this proceeding.