

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

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ISIAH HILL,  
*Petitioner/Appellant,*

*v.*

THE STATE OF ARIZONA,  
*Respondent/Appellee.*

No. 2 CA-CV 2016-0007  
Filed May 4, 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NOT FOR PUBLICATION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. Civ. App. P. 28(a)(1), (f).

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Appeal from the Superior Court in Pinal County  
No. S1100CV201500895  
The Honorable Gilberto V. Figueroa, Judge

**AFFIRMED**

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Isiah Hill, Florence  
*In Propria Persona*

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**MEMORANDUM DECISION**

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

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H O W A R D, Presiding Judge:

¶1 Isiah Hill appeals from the trial court’s dismissal of his petition for writ of mandamus, in which he sought release from custody, and its denial of his motions for reconsideration of that ruling. We have jurisdiction pursuant to A.R.S. § 12-120.21(A)(1). For the following reasons, we affirm the court’s denial of relief and dismissal.

¶2 In 2007, pursuant to a plea agreement, Hill was convicted of multiple charges, including conspiracy, kidnapping, attempted child prostitution, pandering, and illegal control of an enterprise. He was sentenced to concurrent terms of imprisonment, the longest being sixteen years, to be followed by a five-year term of probation. Since then, Hill has initiated multiple proceedings for post-conviction or habeas corpus relief from his convictions and sentences. *See, e.g., State v. Hill*, No. 1 CA-CR 13-0578 PRPC (memorandum decision filed June 2, 2015); *Hill v. Ariz. Dep’t of Corr.*, No. 2 CA-HC 2011-0002 (memorandum decision filed Nov. 10, 2011).

¶3 In the mandamus, or “special action,” proceeding below, *see* Ariz. R. P. Spec. Actions 1(a),<sup>1</sup> Hill erroneously alleged

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<sup>1</sup>Rule 1(a), Ariz. R. P. Spec. Actions, provides, in relevant part,

Relief previously obtained against a body, officer, or person by writs of certiorari, mandamus, or prohibition in the trial or appellate courts shall be obtained in an

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that in Pinal County Superior Court Cause No. CV-201202893—an earlier mandamus proceeding initiated by Hill—the trial court had scheduled a “dismissal hearing” for the purpose of dismissing his criminal convictions and ordering his release from prison, but had then dismissed the habeas proceeding “for lack of service of summons/writ upon the state in a timely fashion.” But the order Hill refers to in Pinal County No. CV-201202893 only set “a dismissal hearing, pursuant to Rule 4(i), Arizona Rules of Civil Procedure,” and had nothing to do with dismissing his criminal convictions or releasing him from his sentences. Rule 4(i) provides for dismissal of an action—here, Hill’s mandamus action in Pinal County No. CV-201202893—“[i]f service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint.” *See also* Ariz. R. P. Spec. Actions 4(c) (summons and complaint in special action “shall be served as process if served under Rules 4, 4.1 or 4.2, as applicable”). Thus, the court in Pinal County No. CV-201202893 dismissed Hill’s mandamus proceeding without prejudice “for lack of service,” “pursuant to Rule 4(i).”<sup>2</sup>

¶4 The trial court found “no grounds under which . . . Hill can be granted any relief” on his petitions for writs of mandamus or habeas corpus, filed simultaneously in this proceeding, and the

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action under this Rule, and any reference in any statute or rule to any of these writs . . . shall be deemed to refer to the special action authorized under this Rule. Special forms and proceedings for these writs are replaced by the special action provided by this Rule, and designation of the proceedings as certiorari, mandamus, or prohibition is neither necessary nor proper.

<sup>2</sup>Hill appealed from the trial court’s dismissal of Pinal County No. CV-201202893, and this court dismissed that appeal for lack of jurisdiction. *See Hill v. State*, 2 CA-HC 2013-0006 (memorandum decision filed July 16, 2013).

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court dismissed the case.<sup>3</sup> The court noted that Hill “was never ordered released by [the court in Pinal County No. CV-201202893] nor, to this Court’s knowledge, by any other court.”

¶5 Hill’s argument on appeal, that the trial court’s denial of relief violated the principle of collateral estoppel and the prohibition against double jeopardy, is unsupported by the record. To the extent Hill relies on this court’s dismissal of his appeal from the ruling in Pinal County No. CV-201202893 for lack of appellate jurisdiction, he is mistaken in asserting that this court had “already reviewed” the record and had “concurred with [him]” that a writ of mandamus “was granted [on] 11/16/12.” We concluded only that “the trial court’s order dismissing Hill’s petition without prejudice is not appealable” and that we therefore lacked jurisdiction to consider his appeal. *Hill*, 2 CA-HC 2013-0006, ¶ 1. To the extent he has relied, in the instant proceeding, on A.R.S. § 12-2028(A) to suggest the trial court’s November 2012 order in Pinal County No. CV-201202893 should be construed as a “peremptory writ of mandamus,” *id.*, he is also mistaken. The procedures identified in that statute have been replaced by the rules of procedure for special action. *See* Ariz. R. P. Spec. Actions 1(a).

¶6 We conclude the trial court neither erred nor abused its discretion in dismissing Hill’s petition for writ of mandamus on its merits. *See* Ariz. R. P. Spec. Actions 6. Accordingly, we affirm the court’s dismissal order.

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<sup>3</sup>In his notice of appeal and opening brief, Hill challenges only the dismissal of his petition for writ of mandamus. He has therefore waived appellate review of the dismissal of his habeas corpus petition.