

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24

FILED BY CLERK

MAR 11 2011

COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

THE STATE OF ARIZONA,)	2 CA-CR 2010-0391-PR
)	DEPARTMENT B
Respondent,)	
)	<u>MEMORANDUM DECISION</u>
v.)	Not for Publication
)	Rule 111, Rules of
ERIC MARK SUTHERLAND,)	the Supreme Court
)	
Petitioner.)	
_____)	

PETITION FOR REVIEW FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR56228

Honorable Richard Gordon, Judge

REVIEW GRANTED; RELIEF DENIED

Barbara LaWall, Pima County Attorney
By Jacob R. Lines

Tucson
Attorneys for Respondent

Eric Sutherland

Buckeye
In Propria Persona

ECKERSTROM, Judge.

¶1 Petitioner Eric Sutherland seeks review of the trial court's summary dismissal of his successive petition for post-conviction relief filed pursuant to Rule 32,

Ariz. R. Crim. P. We will not disturb this ruling unless the court clearly has abused its discretion. *State v. Swoopes*, 216 Ariz. 390, ¶ 4, 166 P.3d 945, 948 (App. 2007).

¶2 After a 1997 jury trial, Sutherland was convicted of theft and trafficking in stolen property and was sentenced to concurrent, twenty-year prison terms. We affirmed his convictions and sentences on appeal. *State v. Sutherland*, No. 2 CA-CR 97-0498 (memorandum decision filed Jul. 29, 1999). He then filed a petition for post-conviction relief, which the trial court summarily denied. He filed his second notice of post-conviction relief in 2003, agreeing with the court that various other pleadings he previously had filed should be treated as his second Rule 32 petition. The trial court summarily denied his claims and we denied Sutherland relief on his subsequent petition for review. *State v. Sutherland*, No. 2 CA-CR 2004-0269-PR (decision order filed Oct. 31, 2005).

¶3 Sutherland filed his third notice for post-conviction relief in July 2006, asserting he had obtained new evidence “through a handwriting expert w[h]ich shows and proves the prosecutor, state’s witnesses, [and law enforcement] officers conspired to frame [him] by fabricating evidence, suborn[ing] perjury, and obstructing justice.” He also filed a motion to modify his release conditions, which the trial court denied. After Sutherland failed to file a Rule 32 petition, the court summarily denied post-conviction relief.

¶4 In April 2010, Sutherland filed a letter raising various claims. The trial court characterized the letter as a notice of post-conviction relief and ordered Sutherland to file an accompanying petition. Sutherland complied, raising claims of ineffective

assistance of trial counsel, appellate counsel, and Rule 32 counsel and asserting his convictions were a result of a “conspiracy” involving various judges, as well as a witness and the prosecutor, both of whom Sutherland alleged had forged signatures on documents admitted into evidence. Sutherland attached various documents purporting to support his claims, including an affidavit from a “document examiner” who opined the prosecutor had forged a signature on a bill of sale apparently presented at trial. The court found Sutherland’s claims precluded, summarily dismissed his petition, and denied Sutherland’s motion for rehearing. This petition for review followed.

¶5 Sutherland asserts preclusion should not apply to his claims, arguing that “previous Judges engaged in fraud in order to invoke the preclusionary [r]ules”; that newly discovered evidence “proved a conspiracy to frame [him] by fabricating the evidence prior to arrest”; that his attorneys had failed to investigate his case adequately; that “newly discovered facts” showed “error or outright fraud . . . in regards to the Indictment,” and that “no second or third Rule 32 [petition] was ever filed”; and, finally, that his Fourth Amendment rights had been violated because the state had manufactured evidence prior to his arrest that “was the basis of probable cause.”

¶6 But Sutherland fails to explain his arguments or provide citations to supporting authority or evidence. *See* Ariz. R. Crim. P. 32.9(c)(1) (petition for review shall contain “[t]he reasons why the petition should be granted” and “specific references to the record”). We therefore need not address his claims further. *Cf. State v. Moody*, 208 Ariz. 424, n.9, 94 P.3d 1119, 1147 n.9 (2004) (“[m]erely mentioning an argument is not enough”; failure to argue claim constitutes abandonment on appeal). And, in our

review of the record, we find no error in the trial court’s summary dismissal of his claims, because Sutherland did not demonstrate any “meritorious reasons” for failing to raise his claims in his previous petitions for post-conviction relief. *See* Ariz. R. Crim. P. 32.2(b). Accordingly, we adopt the court’s rulings. *See State v. Whipple*, 177 Ariz. 272, 274, 866 P.2d 1358, 1360 (App. 1993) (when court correctly identifies and rules 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”).

¶7 We therefore grant review but deny relief.

/s/ Peter J. Eckerstrom
PETER J. ECKERSTROM, Judge

CONCURRING:

/s/ Garye L. Vásquez
GARYE L. VÁSQUEZ, Presiding Judge

/s/ Philip G. Espinosa
PHILIP G. ESPINOSA, Judge