

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

JUN 30 2011

COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

THE STATE OF ARIZONA,)	2 CA-CR 2011-0067-PR
)	DEPARTMENT B
Respondent,)	
)	<u>MEMORANDUM DECISION</u>
v.)	Not for Publication
)	Rule 111, Rules of
CHRISTOPHER B. HOWARD,)	the Supreme Court
)	
Petitioner.)	
_____)	

PETITION FOR REVIEW FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause Nos. CR20091662001 and CR20062057001

Honorable John S. Leonardo, Judge

REVIEW GRANTED; RELIEF DENIED

Barbara LaWall, Pima County Attorney
By Jacob R. Lines

Tucson
Attorneys for Respondent

Christopher Howard

Winslow
In Propria Persona

V Á S Q U E Z, Presiding Judge.

¶1 Pursuant to a plea agreement, petitioner Christopher Howard was convicted of fraudulent scheme and artifice and aggravated taking the identity of another, both committed while he was on probation. The trial court sentenced him to concurrent

sentences, the longer of which is 6.5 years, to be served consecutive to the one-year prison term in the matter for which he had been on probation. Appointed counsel advised the court she was unable to find any issues to raise on Howard's behalf and the court treated counsel's pleading as a notice in lieu of petition, citing *Montgomery v. Sheldon*, 181 Ariz. 256, 260, 889 P.2d 614, 618 (1995). Howard then filed a supplemental, pro se petition for post-conviction relief pursuant to Rule 32, Ariz. R. Crim. P. He now challenges the court's denial of that petition, and asks that he be "discharged from custody." "We will not disturb a trial court's ruling on a petition for post-conviction relief absent a clear abuse of discretion." *State v. Swoopes*, 216 Ariz. 390, ¶ 4, 166 P.3d 945, 948 (App. 2007). We find no abuse here.

¶2 In his petition for review, Howard reasserts, word-for-word, the numerous arguments he raised below: that he was actually innocent, that trial counsel was generally incompetent, and that she coerced him to accept the plea agreement by misrepresenting the sentence he might receive.¹

¶3 Based on the record before us, we cannot say the trial court abused its discretion in denying Howard's petition for post-conviction relief. The court did so in a detailed and thorough order that clearly identified Howard's claims, and correctly ruled on them in a manner that will allow any future court to understand their resolution. We

¹Although Howard apparently also claims on review that the trial court incorrectly found he had a criminal history for sentencing purposes, at the change-of-plea hearing, Howard admitted he had been on probation for a felony conviction when he committed the instant offenses.

therefore approve and adopt the court's ruling and see no need to restate it here. *See State v. Whipple*, 177 Ariz. 272, 274, 866 P.2d 1358, 1360 (App. 1993).

¶4 We grant the petition for review but deny relief.

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

CONCURRING:

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

/s/ Virginia C. Kelly
VIRGINIA C. KELLY, Judge