

NOTICE: NOT FOR PUBLICATION.  
UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION DOES NOT CREATE  
LEGAL PRECEDENT AND MAY NOT BE CITED EXCEPT AS AUTHORIZED.

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

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STATE OF ARIZONA, *Respondent*,

*v.*

JEFFREY ROBERT CAVANESS, *Petitioner*.

No. 1 CA-CR 13-0380 PRPC  
FILED 11-20-14

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Petition for Review from the Superior Court in Maricopa County  
No. CR2003-016418-002  
The Honorable Cynthia Bailey, Judge

**REVIEW GRANTED; RELIEF DENIED**

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COUNSEL

Maricopa County Attorney's Office, Phoenix  
By Diane Meloche  
*Counsel for Respondent*

Jeffrey Robert Cavaness, Florence  
*Petitioner*

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**MEMORANDUM DECISION**

Judge Andrew W. Gould delivered the decision of the Court, in which Presiding Judge Margaret H. Downie and Judge Samuel A. Thumma joined.

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**G O U L D, Judge:**

¶1 Petitioner, Jeffrey Robert Cavaness, petitions this court for review from the dismissal of his petition for post-conviction relief. We have considered the petition for review and, for the reasons stated, grant review and deny relief.

¶2 Cavaness pled guilty to drive-by shooting and two counts of aggravated assault and the trial court sentenced him to an aggregate term of eighteen years' imprisonment. Cavaness now seeks review of the summary dismissal of his third successive petition for post-conviction relief. We have jurisdiction pursuant to Arizona Rule of Criminal Procedure 32.9(c).

¶3 We deny relief. Cavaness's third petition for post-conviction relief is identical to his second petition for post-conviction relief, which the trial court dismissed in January 2010. The only difference is that Cavaness includes one additional exhibit in this latest petition. That exhibit is a copy of a pro se motion for "re-hearing" that Cavaness filed in February 2010 when he sought reconsideration of his second petition. Any claim a defendant raised in an earlier post-conviction relief proceeding is precluded. Ariz. R. Crim. P. 32.2(a). None of the exceptions under Rule 32.2(b) apply. While these are not the grounds upon which the trial court dismissed the third petition, we may affirm a decision of a trial court on any basis supported by the record. *State v. Robinson*, 153 Ariz. 191, 199, 735 P.2d 801, 809 (1987).

¶4 Further, while the petition for review presents additional issues, Cavaness did not raise those issues in the petition for post-conviction relief he filed below. A petition for review may not present issues not first presented to the trial court. *State v. Ramirez*, 126 Ariz. 464, 467, 616 P.2d 924, 927 (App. 1980); *State v. Wagstaff*, 161 Ariz. 66, 71, 775 P.2d 1130, 1135 (App. 1988); *State v. Bortz*, 169 Ariz. 575, 577, 821 P.2d 236, 238 (App. 1991); Ariz. R. Crim. P. 32.9(c)(1)(ii).

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We grant review and deny relief.



Ruth A. Willingham · Clerk of the Court  
FILED : jt