

NOTICE: NOT FOR OFFICIAL PUBLICATION.  
UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL  
AND MAY BE CITED ONLY AS AUTHORIZED BY RULE.

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

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STATE OF ARIZONA, *Respondent*,

*v.*

LAWRENCE ALLAIN, JR., *Petitioner*.

No. 1 CA-CR 15-0051 PRPC  
FILED 3-21-2017

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Petition for Review from the Superior Court in Maricopa County  
No. CR2012-122883-001  
The Honorable Patricia A. Starr, Judge

**REVIEW GRANTED; RELIEF DENIED**

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COUNSEL

Maricopa County Attorney's Office, Phoenix  
By Susan L. Luder  
*Counsel for Respondent*

Lawrence Allain, Jr., Florence  
*Petitioner*

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**MEMORANDUM DECISION**

Judge Patricia K. Norris delivered the decision of the Court, in which Presiding Judge Kenton D. Jones and Judge Paul J. McMurdie joined.

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**NORRIS**, Judge:

¶1 Lawrence Allain Jr. petitions this court for review of the summary dismissal of his petition for post-conviction relief. We grant review, but deny relief.

¶2 A jury convicted Allain of possession or use of dangerous drugs, possession or use of marijuana, and possession of drug paraphernalia. This court affirmed his convictions and sentences on appeal. *State v. Allain*, 1 CA-CR 13-0140 (Ariz. App. December 3, 2013) (mem. decision).

¶3 Allain filed a timely notice of post-conviction relief. The superior court appointed counsel to represent Allain in his post-conviction proceedings, and court appointed counsel notified the superior court that he could find no basis for post-conviction relief. Allain then filed a pro se petition for post-conviction relief arguing the superior court imposed an illegal sentence, the jury's verdict was not unanimous, and his trial and appellate counsel were ineffective.

¶4 The superior court summarily dismissed his petition for post-conviction relief. In its ruling, the superior court explained that Allain could have argued on direct appeal that he had received an illegal sentence and the jury had returned a non-unanimous verdict. Accordingly, the superior court concluded Allain was, therefore, precluded from raising those issues in a post-conviction proceeding. *See* Ariz. R. Crim. P. 32.2(a)(3) (defendant precluded from raising issue in petition for post-conviction relief that could be raised on direct appeal). The superior court also ruled Allain had failed to state a colorable claim of ineffective assistance of trial or appellate counsel, noting that trial counsel's strategic decisions did not support an allegation of ineffective assistance of counsel, and appellate counsel's actions did not fall below objectively reasonable standards.

¶5 In his petition for review, Allain reiterates the same arguments he raised in his petition for post-conviction relief: he received an

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illegal sentence, the jury returned a non-unanimous verdict, and both his trial<sup>1</sup> and appellate counsel were ineffective. In summarily dismissing his petition for post-conviction relief, the superior court issued a ruling that clearly identified, fully addressed, and correctly resolved the claims Allain raised. Further, the court did so in a thorough, well-reasoned manner that will allow any future court to understand the court's rulings. Under these circumstances, "[n]o useful purpose would be served by this court rehashing the trial court's correct ruling in a written decision." *State v. Whipple*, 177 Ariz. 272, 274, 866 P.2d 1358, 1360 (App. 1993). We therefore adopt the trial court's ruling.

¶6 For the foregoing reasons, although we grant review, we deny relief.



AMY M. WOOD • Clerk of the Court  
FILED: AA

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<sup>1</sup>In his petition for review, Allain also argues his trial counsel was ineffective for failing to challenge the legality of his arrest and the arresting officer's subsequent search. He did not, however, raise this argument in his petition for post-conviction relief. Therefore, that argument is not properly before us. *See State v. Ramirez*, 126 Ariz. 464, 468, 616 P.2d 924, 928 (App. 1980) (defendant may not present issues for the first time in a petition for review).