

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL  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.*

ANGEL FELIX RUIZ, *Petitioner*.

No. 1 CA-CR 15-0213 PRPC  
FILED 9-26-2017

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Petition for Review from the Superior Court in Mohave County  
No. CR-2011-00231  
The Honorable Derek C. Carlisle, Judge

**REVIEW GRANTED AND RELIEF DENIED**

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COUNSEL

Mohave County Attorney's Office, Kingman  
By Matthew J. Smith  
*Counsel for Respondent*

Angel Felix Ruiz, Florence  
*Petitioner*

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**MEMORANDUM DECISION**

Presiding Judge Randall M. Howe delivered the decision of the Court, in  
which Judge Lawrence F. Winthrop and Judge Jon W. Thompson joined.

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STATE v. RUIZ  
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HOWE, Judge:

¶1 Angel Felix Ruiz petitions this Court for review of the denial of his petition for post-conviction relief. We have considered the petition for review and, for the reasons stated, grant review but deny relief.

¶2 A jury convicted Ruiz of possession of dangerous drugs for sale (methamphetamine) and possession of drug paraphernalia. The trial court sentenced Ruiz to six years' imprisonment on the possession conviction and a concurrent six-month jail term on the drug paraphernalia conviction. This Court affirmed the convictions and sentences. *State v. Ruiz*, 1 CA-CR 12-0113 (Ariz. App. May 2, 2013) (mem. decision).

¶3 Ruiz thereafter petitioned for post-conviction relief, alleging that his trial counsel provided ineffective assistance by failing to properly explain a plea offer. At the conclusion of an evidentiary hearing at which both Ruiz and his trial counsel testified, the trial court denied relief, finding that Ruiz failed to prove his claim. This petition for review followed.

¶4 To obtain relief on a claim of ineffective assistance of counsel, a defendant must show that counsel's performance fell below objectively reasonable standards and that the deficient performance prejudiced the defendant. *Strickland v. Washington*, 466 U.S. 668, 687 (1984); *State v. Nash*, 143 Ariz. 392, 397 (1985). When a trial court finds a claim colorable and subsequently conducts an evidentiary hearing, the defendant has the burden of proving all factual allegations by a preponderance of the evidence. Ariz. R. Crim. P. 32.8(c). After an evidentiary hearing, our review of the trial court's factual findings "is limited to a determination of whether those findings are clearly erroneous." *State v. Sasak*, 178 Ariz. 182, 186 (App. 1993). When "the trial court's ruling is based on substantial evidence, this court will affirm." *Id.*

¶5 Credibility determinations in Rule 32 proceedings rest solely with the trial judge, *State v. Fritz*, 157 Ariz. 139, 141 (App. 1988), and the trial court resolves any conflict in the testimony, *State v. Alvarado*, 158 Ariz. 89, 92 (App. 1988). In concluding that counsel properly explained the plea offer to Ruiz, the trial court found counsel's testimony regarding how he explains plea offers more credible and Ruiz's testimony to the contrary less credible. Because the testimony at the evidentiary hearing provides substantial evidence to support the trial court's findings, no basis exists for disturbing the trial court's ruling that Ruiz failed to sustain his burden of proving he was deprived of effective assistance of counsel.

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Accordingly, we grant review but deny relief.



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