

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL  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

SERGIO FELIX SANCHEZ, *Petitioner*.

No. 1 CA-CR 15-0431 PRPC  
FILED 1-11-2018

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Petition for Review from the Superior Court in Maricopa County

No. CR2009-007906-004

No. CR2010-006121-001

The Honorable Joseph C. Welty, Judge

**REVIEW GRANTED AND RELIEF DENIED**

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COUNSEL

Maricopa County Attorney's Office, Phoenix

By Karen Kemper

*Counsel for Respondent*

Gail Gianasi Natale Attorney at Law, Phoenix

By Gail Gianasi Natale

*Counsel for Petitioner*

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**MEMORANDUM DECISION**

Presiding Judge Randall M. Howe delivered the decision of the Court, in which Judge Peter B. Swann and Judge Maria Elena Cruz joined.

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**H O W E, Judge:**

**¶1** Sergio Felix Sanchez petitions this Court for review from the summary dismissal 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** Sanchez pled guilty to first-degree murder in one case and to burglary and kidnapping in a different case. The trial court sentenced him in accordance with the plea agreements to life in prison with the possibility of release after 25 years on the murder conviction and to concurrent prison terms totaling 30.5 years on the burglary and kidnapping convictions.

**¶3** Sanchez commenced a timely proceeding for post-conviction relief and filed a petition alleging claims of ineffective assistance of counsel and incompetency. Ruling Sanchez failed to present a colorable claim for relief, the court dismissed the petition. After the trial court denied Sanchez's motion for rehearing, Sanchez petitioned for review.

**¶4** On review, Sanchez argues that the court erred by summarily dismissing his petition based on a finding that he failed to state a colorable claim for relief. Summary dismissal of a petition for post-conviction relief is appropriate "[i]f the court . . . determines that no . . . claim presents a material issue of fact or law which would entitle the defendant to relief under this rule and that no purpose would be served by any further proceedings." Ariz. R. Crim. P. 32.6(c). We review the summary dismissal of a petition for post-conviction relief for an abuse of discretion. *State v. Bennett*, 213 Ariz. 562, 566 ¶ 17 (2006). We may affirm the lower court "on any basis supported by the record." *State v. Robinson*, 153 Ariz. 191, 199 (1987).

**¶5** In summarily dismissing the claim of ineffective assistance of counsel, the court issued a ruling that clearly identified, fully addressed, and correctly resolved that claim. Further, the court did so in a thorough, well-reasoned manner that will allow any future court to understand the

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court's ruling. 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 (App. 1993). We therefore adopt the court's ruling on that claim.

**¶6** With respect to the claim of incompetency raised under Arizona Rule of Criminal Procedure 32.1(h), as the court noted in summarily dismissing that claim, Sanchez had an evidentiary hearing before sentencing regarding his motion to withdraw from the plea agreement based on his incompetency. In both his petition for post-conviction relief and his petition for review, Sanchez disagrees with the trial court's ruling in denying the motion that his mental illness did not render him incompetent to enter a guilty plea. He argues that the trial court should have agreed with the experts who opined that he was incompetent.

**¶7** Sanchez acknowledges conflicting evidence was presented at the hearing on his motion to withdraw from the plea agreement regarding his competency to plead guilty. The trial court sits as the finder of fact and resolves conflicting evidence and weighs the credibility of witnesses. *See State v. Cannon*, 148 Ariz. 72, 75 (1985); *see also State v. Moody*, 208 Ariz. 424, 449 ¶ 81 (2004) (deferring to the trial court's credibility evaluation). The evidence presented at the hearing on Sanchez's motion to withdraw from the plea agreement is more than sufficient to support the trial court's finding of competency in denying that motion. Thus, the court did not abuse its discretion by ruling that Sanchez failed to state a colorable claim under Rule 32.1(h) that would necessitate another evidentiary hearing on his claim of lack of competency raised in the petition for post-conviction relief.

**¶8** Sanchez's argument that the court applied the wrong burden of proof in reviewing his claim of incompetency raised under Rule 32.1(h) has no merit. This rule specifically states that a petitioner seeking relief on the basis that "no reasonable fact-finder would have found defendant guilty" has the burden of establishing the facts underlying the claim by "clear and convincing evidence." Ariz. R. Crim. P. 32.1(h). Thus, the trial court did not err by referring to this burden of proof in addressing Sanchez's claim. Finally, to the extent Sanchez argues that the trial court may not have applied the correct burden of proof when considering the matter of his competency in ruling on his motion to withdraw from the plea agreement because no burden of proof was set forth in the ruling, "we presume that the court was aware of the relevant law and applied it correctly in arriving at its ruling." *See Moody*, 208 Ariz. at 449 ¶ 81.

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¶9 Accordingly, we grant review but deny relief.



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