

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL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

STATE OF ARIZONA, *Respondent*,

v.

MARTIN RIVERA-LONGORIA, *Petitioner*.

No. 1 CA-CR 19-0490 PRPC
FILED 2-27-2020

Appeal from the Superior Court in Coconino County
No. S0300CR201200059
The Honorable Dan Slayton, Judge

REVIEW GRANTED AND RELIEF DENIED

COUNSEL

Coconino County Attorney's Office, Flagstaff
By Mark Dillon Huston
Counsel for Respondent

Martin Rivera-Longoria, Florence
Petitioner

MEMORANDUM DECISION

Judge Randall M. Howe delivered the decision of the Court, in which
Presiding Judge Samuel A. Thumma and Judge Diane M. Johnsen joined.

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HOWE, Judge:

¶1 Martin Rivera-Longoria seeks review of the trial court's order denying his petition for habeas corpus, which the trial court treated as a petition for post-conviction relief, filed pursuant to Arizona Rule of Criminal Procedure ("Rule") 32.1.¹ This is Rivera-Longoria's second, successive petition.

¶2 In May 2012, following a 12-day jury trial, Rivera-Longoria was convicted of four counts of child abuse under A.R.S. § 13-3623(A)(1) and two counts of child abuse under § 13-3623(B)(1). The jury also found that the State had proved four aggravating circumstances beyond a reasonable doubt. Rivera-Longoria was sentenced to aggravated consecutive terms of 24 years' imprisonment on each of the four counts of child abuse and 2.5 years' imprisonment on the other two counts of child abuse, with 1,615 days' presentence incarceration credit.

¶3 In August 2019, Rivera-Longoria petitioned for post-conviction relief. Rivera-Longoria argued that A.R.S. § 13-705 (formerly A.R.S. § 13-604.01) and A.R.S. § 13-702.01 were unconstitutional and that the trial court lacked subject matter jurisdiction because the indictment was based on unconstitutional laws. The trial court summarily dismissed the petition because it did not comply with Rule 32.2 and Rivera-Longoria offered no legal authority to support his request. Rivera-Longoria timely petitioned this Court for review.

¶4 Absent an abuse of discretion or error of law, this court will not disturb a trial court's ruling on a petition for post-conviction relief. *State v. Gutierrez*, 229 Ariz. 573, 577 ¶ 19 (2012). Rivera-Longoria bears the burden to show that the trial court abused its discretion by denying the petition for post-conviction relief. *See State v. Poblete*, 227 Ariz. 537, 538 ¶ 1 (App. 2011) (petitioner has burden of establishing abuse of discretion on review).

¶5 Rivera-Longoria has not established that the trial court abused its discretion by dismissing his petition for post-conviction relief. He does not state why A.R.S. § 13-705 is unconstitutional, nor does he cite authority to support his argument. *See State v. Meeds*, 244 Ariz. 454, 462 ¶ 21 (App. 2018) (stating that the person challenging whether a statute is constitutional has the burden of proving the statute is invalid). Further, A.R.S. § 13-702.01 was repealed in 2008 and the sentence imposed by the

¹ While Rivera-Longoria petitioned for habeas corpus, we refer to it as a petition for post-conviction relief.

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trial court under A.R.S. § 13-705(D) was within the statutory guidelines. Additionally, on review, Rivera-Longoria does not comply with Rule 31.16(c)(2)(D), because he does not provide reasons why this Court should grant the petition. He merely provides a summary of the trial court's ruling, a statement of the issue, and a brief statement of material facts.

¶6 We have reviewed the record in this matter, the trial court's order denying the petition for post-conviction relief, the petition for review, and the State's response. We find that Rivera-Longoria has not established an abuse of discretion.

¶7 For the foregoing reasons, we grant review and deny relief.



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