

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL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

JASON JAY JAIME, *Petitioner*.

No. 1 CA-CR 20-0079 PRPC
FILED 11-24-2020

Petition for Review from the Superior Court in Maricopa County
No. CR2018-002298-001
The Honorable Douglas Gerlach, Judge *Retired*

REVIEW DENIED

COUNSEL

Maricopa County Attorney's Office, Phoenix
By Amanda M. Parker
Counsel for Respondent

Jason Jay Jaime, Douglas
Petitioner

MEMORANDUM DECISION

Presiding Judge James B. Morse Jr., Judge Maria Elena Cruz, and Judge Paul
J. McMurdie delivered the decision of the court.

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PER CURIAM:

¶1 Jason Jay Jaime petitions this court for review from the dismissal of his petition for post-conviction relief. For the reasons that follow, we deny review.

¶2 After a mistrial, Jaime pled guilty to the following amended offenses: aggravated assault, a class 3 non-dangerous felony (domestic violence) (Count 1); disorderly conduct, a class 6 dangerous felony (domestic violence) (Count 2); and tampering with a witness, a class 6 non-dangerous felony with two prior felony convictions (Count 3). The superior court subsequently imposed concurrent prison terms for Counts 2 and 3, the longest being four years for Count 3, and awarded Jaime 104 days of presentence incarceration credit. For Count 1, the court suspended sentence and imposed a three-year term of probation to commence upon Jaime's release.

¶3 Jaime then filed a pro per motion seeking to increase the award of presentence incarceration credit, and he separately commenced post-conviction relief ("PCR") proceedings under Arizona Rule of Criminal Procedure ("Rule") 33.¹ The court denied the motion. Appointed PCR counsel ultimately found no colorable claims to raise in a petition.

¶4 Representing himself, Jaime then filed a Rule 33 petition and repeated his claim regarding the purportedly miscalculated presentence incarceration credit. Jaime also claimed the court improperly used an "expired prior conviction" to enhance the sentence for Count 3. The superior court summarily denied the petition.

¶5 Jaime's petition for review does not comply with Rule 33. Importantly, Jaime does not properly challenge the superior court's dismissal order; instead, he merely provides this Court with a verbatim copy of the PCR petition that was dismissed. *See* Ariz. R. Crim. P. 33.16(c)(2)(B), (D) (petition for review must contain "a statement of issues the trial court decided that the defendant is presenting for appellate review"

¹ Effective January 1, 2020, our supreme court amended the post-conviction relief rules. *State v. Botello-Rangel*, 248 Ariz. 429, 430, ¶ 1 n.1 (App. 2020). The amended rules apply to all cases pending on the effective date unless a court determines that "applying the rule or amendment would be infeasible or work an injustice." *Id.* Because there were no substantive changes to the respective rules related to this decision, we apply and cite to the current rules.

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and the "reasons why the appellate court should grant the petition"). Jaime's lack of compliance with Rule 33 is a sufficient ground to deny relief. *State v. Carriger*, 143 Ariz. 142, 146 (1984) ("Petitioners must strictly comply with [Rule 33] or be denied relief."); *State v. French*, 198 Ariz. 119, 122, ¶ 9 (App. 2000) (summarily rejecting petition for review incorporating trial court filings because it "utterly fails to comply with [former rule]"), *disapproved on other grounds by Stewart v. Smith*, 202 Ariz. 446, 450, ¶ 10 (2002).²

¶6 Jaime's failure to comply with Rule 33.16 justifies our refusal to grant review. *See* Ariz. R. Crim. P. 33.16(k) (describing appellate review under Rule 32.9 as discretionary).

¶7 Accordingly, review of the trial court's order is denied.



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

² Even if we were to overlook these shortcomings, Jaime's petition for review fails to present any meritorious claims. Jaime does not contest the superior court's finding that he waived his claims regarding improper enhancement of his sentence and, therefore, fails to establish an abuse of the court's discretion. *See State v. Gutierrez*, 229 Ariz. 573, 577, ¶ 19 (2012) (noting that absent an abuse of discretion an appellate court will not disturb the trial court's ruling on a petition for post-conviction relief); *State v. Poblete*, 227 Ariz. 537, 538, ¶ 1 (App. 2011) (stating that PCR petitioner bears the burden of establishing an abuse of discretion). The record indicates Jaime was in custody for Counts 2 and 3 from the day he was indicted, June 6, 2018, until he was sentenced on September 26, 2018. Thus, he was properly awarded only 104 days of presentence incarceration credit for those counts.