

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND  
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.  
See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24

FILED BY CLERK

APR 15 2013

COURT OF APPEALS  
DIVISION TWO

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION TWO

THE STATE OF ARIZONA,	)	2 CA-CR 2012-0509-PR
	)	DEPARTMENT B
Respondent,	)	
	)	<u>MEMORANDUM DECISION</u>
v.	)	Not for Publication
	)	Rule 111, Rules of
FELIPE BARRERA PACHECO,	)	the Supreme Court
	)	
Petitioner.	)	
_____	)	

PETITION FOR REVIEW FROM THE SUPERIOR COURT OF PINAL COUNTY

Cause No. S1100CR201100246

Honorable Robert C. Brown, Judge Pro Tempore

REVIEW GRANTED; RELIEF DENIED

\_\_\_\_\_  
Felipe B. Pacheco

\_\_\_\_\_  
Florence  
In Propria Persona

\_\_\_\_\_  
V Á S Q U E Z, Presiding Judge.

¶1 Petitioner Felipe Pacheco was convicted pursuant to a plea agreement of one count of child molestation and two counts of attempted child molestation. The trial court sentenced him to the stipulated prison term of seventeen years on count one, followed by concurrent, lifetime terms of probation on the remaining counts. After Pacheco filed a notice of post-conviction relief, pursuant to Rule 32, Ariz. R. Crim. P., appointed counsel filed a notice pursuant to Rule 32.4(c) avowing she had found no

colorable claim to raise and requesting that Pacheco be given time to file a pro se petition. Pacheco filed a petition, raising claims of ineffective assistance of trial counsel. The court denied relief without an evidentiary hearing and Pacheco seeks review of that ruling.

¶2 “We will not disturb a trial court’s ruling on a petition for post-conviction relief absent a clear abuse of discretion.” *State v. Swoopes*, 216 Ariz. 390, ¶ 4, 166 P.3d 945, 948 (App. 2007). In his pro se petition, Pacheco claimed trial counsel had been ineffective because she had failed to adequately explain the plea agreement to him in part because she did not speak his native language of Spanish and used “hand gestures” in an attempt to communicate; she “gave him faulty legal advice regarding elements of possible defense”; and she did not inform him about “options” he could have pursued on appeal. In its minute entry denying Pacheco’s pro se petition, the court identified and addressed the claims he had raised, resolving them in a manner that has permitted review by this court. *See State v. Whipple*, 177 Ariz. 272, 274, 866 P.2d 1358, 1360 (App. 1993).

¶3 The record before us supports the trial court’s ruling. We note, in particular, that a certified Spanish interpreter was present during the change-of-plea hearing, which began as a settlement conference, and at sentencing. And among the questions the court asked Pacheco at the change-of-plea proceeding was whether the initials he had written in front of each paragraph of the plea agreement reflected that the terms had been “read and explained to [him] in the Spanish language” and that his attorney had reviewed the provisions with him and had answered his questions. Pacheco

responded, “Yes.” Pacheco has failed to sustain his burden of establishing the court abused its discretion in dismissing his petition. Consequently, we adopt the court’s ruling, finding no purpose would be served by restating the ruling in its entirety here. *See Whipple*, 177 Ariz. at 274, 866 P.2d at 1360. Additionally, because some of his allegations regarding counsel’s purported ineffectiveness are being raised for the first time on review, we will not address them. *State v. Ramirez*, 126 Ariz. 464, 468, 616 P.2d 924, 928 (App. 1980).

¶4 We grant Pacheco’s petition for review, but for the reasons stated, we deny relief.

*/s/ Garye L. Vásquez*  
\_\_\_\_\_  
GARYE L. VÁSQUEZ, Presiding Judge

CONCURRING:

*/s/ Philip G. Espinosa*  
\_\_\_\_\_  
PHILIP G. ESPINOSA, Judge

*/s/ J. William Brammer, Jr.*  
\_\_\_\_\_  
J. WILLIAM BRAMMER, JR., Judge\*

\*A retired judge of the Arizona Court of Appeals authorized and assigned to sit as a judge on the Court of Appeals, Division Two, pursuant to Arizona Supreme Court Order filed December 12, 2012.