

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

JUL 16 2013

COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

THE STATE OF ARIZONA,)	2 CA-CR 2013-0172-PR
)	DEPARTMENT A
Respondent,)	
)	<u>MEMORANDUM DECISION</u>
v.)	Not for Publication
)	Rule 111, Rules of
EDUARDO GUZMAN-DUARTE,)	the Supreme Court
)	
Petitioner.)	
_____)	

PETITION FOR REVIEW FROM THE SUPERIOR COURT OF MARICOPA COUNTY

Cause No. CR2008006674001DT

Honorable David M. Talamante, Judge

REVIEW DENIED

William G. Montgomery, Maricopa County Attorney
By Diane Meloche

Phoenix
Attorneys for Respondent

Eduardo Guzman-Duarte

Florence
In Propria Persona

MILLER, Judge.

¶1 Eduardo Guzman-Duarte petitions this court for review of the trial court's order summarily dismissing his of-right petition for post-conviction relief filed pursuant to Rule 32, Ariz. R. Crim. P. We will not disturb that ruling unless the court has clearly

abused its discretion. *See State v. Swoopes*, 216 Ariz. 390, ¶ 4, 166 P.3d 945, 948 (App. 2007). Guzman-Duarte has not met his burden of establishing such abuse here.

¶2 Guzman-Duarte pled guilty to manslaughter and was sentenced to a fourteen-year prison term. Before sentencing, he requested new counsel and sought to withdraw from his plea, claiming counsel had refused to “interview everyone” and “file all pre-trial motions,” and instead had “scared [him] into signing a plea for something that [he] did not do.” The trial court denied the motions, stating it would only assign new counsel in the event it found it necessary to allow Guzman-Duarte to withdraw from the plea but concluding there was “no manifest injustice” that would justify that result. The court informed Guzman-Duarte that he could raise his claims again in post-conviction proceedings, but that he would be required to “show some proof or substantiation of the allegations” he had made.

¶3 Guzman-Duarte filed a notice of post-conviction relief, and appointed counsel filed a notice stating she had reviewed the record but was “unable to find any claims for relief to raise in post-conviction relief proceedings.” Guzman-Duarte then filed a pro se petition claiming his trial counsel had been ineffective, inducing him to plead guilty without having conducted any pretrial investigation. He provided an extensive list of counsel’s other purported deficiencies, broadly asserting that counsel inadequately had represented him. Guzman-Duarte also argued the trial court had “threat[ened]” him to induce his guilty plea, and that he is actually innocent. The court summarily dismissed Guzman-Duarte’s petition, noting he “has failed to submit anything but bare allegations and citations to legal authority in his petition.”

¶4 Guzman-Duarte argues on review, without elaboration, that he should be permitted to withdraw from his guilty plea. He further states that he “only” wishes to

“properly exhaust his . . . state remedies and proceed to the district court.” He provides no factual support for his arguments, and, although he cites some authority, he does not explain how that authority supports the claims he raised below. Guzman-Duarte’s failure to provide citations to the record or provide any cognizable legal argument whatsoever justifies our summary refusal to accept review. *See* Ariz. R. Crim. P. 32.9(c)(1) (petition for review must contain “reasons why the petition should be granted” and either appendix or “specific references to the record”); Ariz. R. Crim. P. 32.9(f) (appellate review under Rule 32.9 discretionary); *see also State v. Bolton*, 182 Ariz. 290, 298, 896 P.2d 830, 838 (1995) (insufficient argument waives claim on review); *State v. French*, 198 Ariz. 119, ¶ 9, 7 P.3d 128, 131 (App. 2000) (summarily rejecting claims not complying with rules governing form and content of petitions for review), *disapproved on other grounds by Stewart v. Smith*, 202 Ariz. 446, ¶ 10, 46 P.3d 1067, 1071 (2002).

¶5 For the reasons stated, we deny Guzman-Duarte’s petition for review.

/s/ Michael Miller

MICHAEL MILLER, Judge

CONCURRING:

/s/ Joseph W. Howard

JOSEPH W. HOWARD, Chief Judge

/s/ Garye L. Vásquez

GARYE L. VÁSQUEZ, Presiding Judge