

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Respondent,

v.

CASSIUS CLAYTON WHITEHEAD,
Petitioner.

No. 2 CA-CR 2013-0196-PR
Filed November 15, 2013

THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.

NOT FOR PUBLICATION

See Ariz. R. Sup. Ct. 111(c); Ariz. R. Crim. P. 31.24

Petition for Review from the Superior Court in Pima County

No. CR20071940

The Honorable Howard Hantman, Judge

REVIEW GRANTED; RELIEF DENIED

COUNSEL

Cassius C. Whitehead, Douglas

In Propria Persona

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MEMORANDUM DECISION

Presiding Judge Vásquez authored the decision of the Court, in which Chief Judge Howard and Judge Miller concurred.

V Á S Q U E Z, Presiding Judge:

¶1 Petitioner Cassius Whitehead seeks review of the trial court’s order denying his petition for post-conviction relief, filed pursuant to Rule 32, Ariz. R. Crim. P. “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). Whitehead has not sustained his burden of establishing such abuse here.

¶2 After a jury trial, Whitehead was convicted of multiple counts of armed robbery, kidnapping, aggravated assault, and attempted first-degree murder of a law enforcement officer. The trial court sentenced him to concurrent and consecutive, aggravated and substantially aggravated prison terms totaling 118 years. This court affirmed Whitehead’s convictions and sentences on appeal. *State v. Whitehead*, No. 2 CA-CR 2009-0110, ¶ 28 (memorandum decision filed Sept. 8, 2011).

¶3 Whitehead initiated a proceeding for post-conviction relief, raising in his petition several claims of ineffective assistance of trial counsel. After an evidentiary hearing, the trial court denied relief, concluding counsel’s performance had either not been deficient, or when arguably deficient, had not prejudiced Whitehead. On review, Whitehead largely repeats the arguments made below and argues the trial court abused its discretion in denying relief.

¶4 Our review of the court’s factual findings “is limited to a determination of whether those findings are clearly erroneous”; we “view the facts in the light most favorable to sustaining the lower

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court's ruling, and we must resolve all reasonable inferences against the defendant." *State v. Sasak*, 178 Ariz. 182, 186, 871 P.2d 729, 733 (App. 1993). When "the trial court's ruling is based on substantial evidence, this court will affirm." *Id.* And, "[e]vidence is not insubstantial merely because testimony is conflicting or reasonable persons may draw different conclusions from the evidence." *Id.*; see also *State v. Fritz*, 157 Ariz. 139, 141, 755 P.2d 444, 446 (App. 1988) (trial court sole arbiter of witness credibility in post-conviction proceeding).

¶5 Whitehead's arguments on review amount to a request to reweigh the evidence presented at the evidentiary hearing, which we will not do. See *Sasak*, 178 Ariz. at 186, 871 P.2d at 733 (it is duty of trial court to resolve conflicts in evidence); see also *State v. Rodriguez*, 205 Ariz. 392, ¶ 18, 71 P.3d 919, 924 (App. 2003). Instead, because substantial evidence supports the trial court's findings and conclusions, we affirm its ruling and adopt its thorough, well-reasoned decision. See *State v. Whipple*, 177 Ariz. 272, 274, 866 P.2d 1358, 1360 (App. 1993) (when trial court has correctly ruled on issues raised "in a fashion that will allow any court in the future to understand the resolution[, n]o useful purpose would be served by this court rehashing the trial court's correct ruling in a written decision").

¶6 On review Whitehead particularly contends the trial court erred in "fail[ing] to analyze" counsel's errors in terms of "the cumulative impact of multiple errors." But at the hearing and in its ruling the court noted the "overwhelming evidence" of Whitehead's guilt, and it concluded in its ruling that Whitehead had not established that "but for [counsel's] 'mistakes'" the outcome would have been different. Whitehead has therefore not established that the court failed to properly apply the standard set forth in *Strickland v. Washington*, 466 U.S. 668, 687 (1984). Accordingly, although we grant the petition for review, relief is denied.