

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

SEP 16 2013

COURT OF APPEALS  
DIVISION TWO

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION TWO

THE STATE OF ARIZONA,	)	2 CA-CR 2013-0251-PR
	)	DEPARTMENT B
Respondent,	)	
	)	<u>MEMORANDUM DECISION</u>
v.	)	Not for Publication
	)	Rule 111, Rules of
KAREN MARIE HANSEN,	)	the Supreme Court
	)	
Petitioner.	)	
_____	)	

PETITION FOR REVIEW FROM THE SUPERIOR COURT OF YAVAPAI COUNTY

Cause No. P1300CR20030191

Honorable Celé Hancock, Judge

REVIEW GRANTED; RELIEF DENIED

\_\_\_\_\_  
Karen Marie Hansen

\_\_\_\_\_  
Goodyear  
In Propria Persona

\_\_\_\_\_  
E S P I N O S A, Judge.

¶1 Petitioner Karen Hansen seeks review of the trial court’s order dismissing her proceeding for post-conviction relief 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). Hansen has not sustained her burden of establishing such abuse here.

¶2 After a jury trial, Hansen was convicted of fraudulent scheme and artifice and theft. The trial court imposed enhanced, aggravated, concurrent terms of twelve-years’ imprisonment. Hansen’s convictions and sentences were affirmed on appeal. *State v. Hansen*, No. 1 CA-CR 05-0520 (memorandum decision filed May 8, 2007). She initiated a proceeding for post-conviction relief, and appointed counsel filed a notice stating he had reviewed the record and was “unable to find a meritorious issue of law or fact which may be raised as a basis for relief pursuant to Rule 32.” Hansen later filed a pro se motion to “Dismiss [her] notice” of post-conviction relief “without prejudice pending further investigation.” The court granted the motion and dismissed the proceeding in August 2008.

¶3 In October 2010, Hansen filed another notice of post-conviction relief, and new, appointed counsel filed a notice stating he could “find no colorable claim which can be raised on [Hansen’s] behalf.” The trial court granted several extensions of time for Hansen to file a pro se supplemental petition, but she failed to do so, although she raised a claim of ineffective assistance of counsel in her final request for an extension of time, which the court denied. In that order, the court concluded that on the record before it, no

claims existed that presented “a material issue of fact or law which would entitle the defendant to relief under Rule 32,” and it summarily dismissed the proceeding.

¶4 On review, Hansen argues the trial court wrongfully denied her last motion for an extension of time and refused her appointment of new advisory counsel after appointed counsel was arrested. But the record before us shows she received new counsel. When Hansen filed her second notice of post-conviction relief, the court appointed the Yavapai County Public Defender to represent her in the proceeding. John R. Thornton Jr., a deputy public defender, was assigned to her case. A month later, Thornton apparently was arrested and charged with aggravated assault and disorderly conduct. Three days after his arrest, the public defender’s office reassigned Hansen’s case to a different attorney. The trial court granted an extension of time requested shortly thereafter, and noted in its ruling that new advisory counsel had been assigned.

¶5 After that order, which extended the time for Hansen to file her petition by thirty days, the trial court granted three more thirty-day extensions, noting in the last that no further extensions would be granted “absent extenuating circumstances.” Hansen again filed a motion for an extension of time, and the court denied the motion and dismissed the proceeding. On this record, we cannot say the court abused its discretion in denying her motion for an extension of time. *See* Ariz. R. Crim. P. 32.4(c)(2) (providing that extensions of time beyond forty-five days only granted under “extraordinary circumstances”).

¶6 Hansen also maintains it was error for her case to have been reassigned to a new judge. In October 2011, Hansen’s case was reassigned to a different judge of the

Yavapai County Superior Court, “[p]ursuant to [Yavapai County Superior Court] Amended Administrative Order 2011-12.” That order indicates that numerous matters were reassigned within the court, including reassignments of post-conviction relief proceedings to Judge Hancock and reassignments of civil, probate, and domestic relations cases to Hansen’s original sentencing judge.

¶7 Rule 32.4(e) provides that post-conviction relief proceedings are to be assigned to the sentencing judge “where possible,” but Hansen cites no authority to support the further proposition that a defendant has a right to such an assignment. *See* Ariz. R. Crim. P. 32.9(c)(1); *cf.* Ariz. R. Crim. P. 32.4(c) cmt. (noting current Rule 32.4(e) “favors the policy of giving a judge already familiar with the case the opportunity to correct any errors”). Nor can we say the trial court abused its discretion in denying her notice for a change of judge pursuant to Rule 10.2, Ariz. R. Crim. P., because “the right to a change of judge shall be inapplicable to Rule 32 petitions for post-conviction relief.” And, in any event, in her notice, Hansen did not ask for return to her sentencing judge, who is apparently no longer serving on the Yavapai County Superior Court, but rather for reassignment to a third judge.<sup>1</sup> Furthermore, although Hansen suggests bias on the part of the presiding judge who reassigned the matter and the judge who presided over her instant Rule 32 proceeding, she has not established that either judge displayed “a deep-seated favoritism or antagonism that would make fair judgment impossible.” *State v.*

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<sup>1</sup>In her petition for review, Hansen does ask this court to “refer her [petition] back to the trial court with the [original judge] presiding.” But, as noted above, she did not seek that relief below, *see State v. Ramirez*, 126 Ariz. 464, 468, 616 P.2d 924, 928 (App. 1980), and even were such relief appropriate, it does not appear possible.

*Ramsey*, 211 Ariz. 529, 541-42, 124 P.3d 756, 768-69 (App. 2005), quoting *State v. Henry*, 189 Ariz. 542, 546, 944 P.2d 57, 61 (1997).

¶8 For the foregoing reasons, although we grant the petition for review, relief is denied.

/s/ Philip G. Espinosa  
PHILIP G. ESPINOSA, Judge

CONCURRING:

/s/ Virginia C. Kelly  
VIRGINIA C. KELLY, Presiding Judge

/s/ Peter J. Eckerstrom  
PETER J. ECKERSTROM, Judge