

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 25 2013

COURT OF APPEALS  
DIVISION TWO

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION TWO

THE STATE OF ARIZONA,	)	2 CA-CR 2013-0301-PR
	)	DEPARTMENT B
Respondent,	)	
	)	<u>MEMORANDUM DECISION</u>
v.	)	Not for Publication
	)	Rule 111, Rules of
MARK DALE CRAWFORD,	)	the Supreme Court
	)	
Petitioner.	)	
_____	)	

PETITION FOR REVIEW FROM THE SUPERIOR COURT OF MARICOPA COUNTY

Cause No. CR2005031036001SE

Honorable Brian K. Ishikawa, Judge

REVIEW GRANTED; RELIEF DENIED

Mark D. Crawford

Mesa  
In Propria Persona

ESPINOSA, Judge.

¶1 Petitioner Mark Crawford 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). Crawford has not sustained his burden of establishing such abuse here.

¶2 Pursuant to a plea agreement, Crawford was convicted of two counts of attempted sexual exploitation of a minor, dangerous crimes against children. The trial court imposed a mitigated five-year prison sentence on the first count, and suspended the imposition of sentence on the second count, placing Crawford on a lifetime term of probation. Thereafter, Crawford sought post-conviction relief in 2006, 2008, and 2010. On each occasion, relief was denied.

¶3 Crawford filed a fourth notice of post-conviction relief in September 2011, citing Rule 32.1(e), and arguing in his petition that he was sentenced in violation of his rights against double jeopardy and that A.R.S. § 13-705, the dangerous-crimes-against-children statute, could not be applied to his case. The trial court summarily denied relief, concluding Crawford's claims were precluded.

¶4 On review, Crawford again argues his sentencing violated his rights against double jeopardy and maintains his crimes should not have been designated dangerous crimes against children.<sup>1</sup> As the trial court correctly concluded, these claims, which arise under Rule 32.1(a), are precluded because Crawford could have asserted them in his

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<sup>1</sup>In a motion filed after the court dismissed the petition and on review, Crawford asserts that he received ineffective assistance of counsel and that the dangerous-crimes-against-children statute is "overbroad and vague." Because these claims were not timely presented to the trial court or not properly developed on review, we do not address them. *See* Ariz. R. Crim. P. 32.9(c)(1)(ii) (petition for review shall contain "[t]he issues which were decided by the trial court and which the defendant wishes to present" for review); *State v. Bolton*, 182 Ariz. 290, 298, 896 P.2d 830, 838 (1995) ("Failure to argue a claim on appeal constitutes waiver of that claim."); *State v. Ramirez*, 126 Ariz. 464, 468, 616 P.2d 924, 928 (App. 1980) (appellate court will not consider issues not raised below); *cf.* *State v. Lopez*, 223 Ariz. 238, ¶ 7, 221 P.3d 1052, 1054 (App. 2009) (trial court need not consider claims of ineffective assistance of counsel first raised in petitioner's reply).

previous proceedings. And, although Crawford cited Rule 32.1(e) in his notice, he has not identified any “[n]ewly discovered material fact[]” relevant to his claim or otherwise established that his claims fall into any of the exceptions to preclusion. Therefore, although we grant the petition for review, we deny relief.

/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