

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Respondent,

v.

JOSHUA BLAYNE McMURRAY,
Petitioner.

No. 2 CA-CR 2013-0381-PR
Filed December 3, 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NOT FOR PUBLICATION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 Maricopa County
No. CR2010126498001SE
The Honorable Christopher Whitten, Judge

REVIEW DENIED

COUNSEL

William G. Montgomery, Maricopa County Attorney
By Shaheen P. Torgoley, Deputy County Attorney, Phoenix
Counsel for Respondent

Joshua McMurray, Florence
In Propria Persona

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MEMORANDUM DECISION

Presiding Judge Kelly authored the decision of the Court, in which Judge Espinosa and Judge Eckerstrom concurred.

K E L L Y, Presiding Judge:

¶1 Joshua McMurray 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 clearly has abused its discretion. *See State v. Swoopes*, 216 Ariz. 390, ¶ 4, 166 P.3d 945, 948 (App. 2007). For the reasons that follow, we deny review.

¶2 McMurray pled guilty to one count of molestation of a child and one count of attempted molestation of a child and was sentenced to a twenty-year prison term on the first count to be followed by a term of lifetime probation for the second. He filed a notice of post-conviction relief, and appointed counsel filed a notice stating he had reviewed the record but was "unable to find any claims for relief to raise in post-conviction proceedings." McMurray filed a pro se petition arguing there had been "gross violations of [his] *Miranda*¹ rights" during the police investigation, that his trial counsel had improperly waived his speedy trial rights without his permission, that counsel was ineffective for not filing a motion to suppress evidence despite promising to do so and had "pushed [him] into signing a plea," that his sentence was "excessive" and he was not given adequate time to review his presentence report, and that his indictment was improper because the officer who testified before the grand jury "had no personal involvement in this case." The trial court summarily denied relief, concluding McMurray had waived several of his claims by pleading guilty, had not demonstrated counsel had been ineffective or that he had been prejudiced by counsel's conduct, and had "provided no factual support" for his claim that his sentence was excessive.

¹*Miranda v. Arizona*, 384 U.S 436 (1966).

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¶3 McMurray’s petition for review contains no meaningful description of the issues decided by the trial court, facts material to the consideration of those issues, or reasons why the petition should be granted, as required by Rule 32.9(c)(1). Although he asserts the trial court erred in summarily rejecting his claims, he does not explain the basis for those claims, identify any error in the court’s reasoning, or cite relevant authority. McMurray’s failure to comply with Rule 32.9 justifies our summary refusal to grant 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,” but shall not “incorporate any document by reference, except the appendices”); 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).

¶4 Review is denied.