

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Respondent,

v.

CHRISTIAN ALBERTO SANCHEZ,
Petitioner.

No. 2 CA-CR 2014-0390-PR
Filed March 16, 2015

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NOT FOR PUBLICATION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)(1); Ariz. R. Crim. P. 31.24.

Petition for Review from the Superior Court in Pima County

No. CR20094239001

The Honorable Brenden J. Griffin, Judge

REVIEW GRANTED; RELIEF DENIED

COUNSEL

Harold L. Higgins PC, Tucson
By Harold L. Higgins Jr.
Counsel for Petitioner

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MEMORANDUM DECISION

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

VÁSQUEZ, Judge:

¶1 Petitioner Christian Sanchez 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). Sanchez has not sustained his burden of establishing such abuse here.

¶2 After a jury trial, Sanchez was convicted of molestation of a child, sexual conduct with a minor under fifteen, and three counts of sexual abuse of a minor under fifteen. The trial court imposed concurrent and consecutive terms of imprisonment totaling thirty-seven years. This court affirmed his convictions and sentences on appeal, after modifying the sentencing order to remove an improperly assessed time-payment fee. *State v. Sanchez*, No. 2 CA-CR 2011-0005 (memorandum decision filed Dec. 23, 2011).

¶3 Sanchez initiated a proceeding for post-conviction relief, arguing in his petition that "[t]rial counsel was ineffective in failing to investigate and present important evidence at the pretrial hearing on prior acts" and "for not presenting evidence which would have eroded various important aspects of the state's case."¹ After an evidentiary hearing, the trial court denied relief.

¹Sanchez also asserted that this evidence should be considered newly discovered evidence entitling him to relief if it was determined that counsel could not have obtained the evidence by due diligence. He does not reassert this claim on review, and we therefore do not address it. *See* Ariz. R. Crim. P. 32.9(c)(1) (petition

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¶4 On review, Sanchez again contends trial counsel was ineffective in relation to the pretrial hearing and in not presenting certain evidence to rebut the state’s expert witness. He maintains the trial court’s ruling after the evidentiary hearing “is fraught with mistakes” and the court erred in denying his petition. We disagree. Sanchez’s argument on review in large part is a request for this court to reweigh the evidence presented at the evidentiary hearing; this we will not do. *See 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). Rather, when “the trial court’s ruling is based on substantial evidence, this court will affirm.” *State v. Sasak*, 178 Ariz. 182, 186, 871 P.2d 729, 733 (App. 1993).

¶5 In its ruling after the hearing, the trial court correctly identified and addressed the claims Sanchez made in a detailed ruling “that will allow any court in the future to understand the resolution.” *State v. Whipple*, 177 Ariz. 272, 274, 866 P.2d 1358, 1360 (App. 1993). Thus, we need not repeat the court’s ruling here, and we instead adopt it. *See id.*

¶6 Therefore, although we grant the petition for review, we deny relief.

for review shall contain “[t]he reasons why the petition should be granted” and “specific references to the record”); *State v. Rodriguez*, 227 Ariz. 58, n.4, 251 P.3d 1045, 1048 n.4 (App. 2010) (declining to address argument not raised in petition for review).