IN THE

# ARIZONA COURT OF APPEALS

DIVISION TWO

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THE STATE OF ARIZONA,
*Respondent*,

*v.*

WILLIAM FRANCIS ROUSH,
*Petitioner*.

No. 2 CA-CR 2014-0397-PR
Filed February 13, 2015

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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NOT FOR PUBLICATION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.

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Petition for Review from the Superior Court in Pima County
No. CR058092001
The Honorable James E. Marner, Judge

**REVIEW GRANTED; RELIEF DENIED**

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William F. Roush, Florence
*In Propria Persona*

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**MEMORANDUM DECISION**

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

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E C K E R S T R O M, Chief Judge:

**¶1**		Petitioner William Roush seeks review of the trial court's order dismissing his successive proceeding 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). Roush has not sustained his burden of establishing such abuse here.

**¶2**		After a jury trial, Roush was convicted of five counts of child abuse and two counts of aggravated assault of a minor under the age of fifteen. The trial court imposed concurrent and consecutive terms of imprisonment totaling twenty-three years. This court affirmed his convictions and sentences on appeal. *State v. Roush*, No. 2 CA-CR 98-0098, ¶ 3 (memorandum decision filed Oct. 6, 2000). Roush subsequently sought and was denied post-conviction relief multiple times, and this court denied relief in each instance. *See State v. Roush*, No. 2 CA-CR 2014-0096-PR (memorandum decision filed Sept. 2, 2014); *State v. Roush*, No. 2 CA-CR 2007-0274-PR (memorandum decision filed Feb. 14, 2008); *State v. Roush*, No. 2 CA-CR 2005-0313-PR (memorandum decision filed May 23, 2006); *State v. Roush*, No. 2 CA-CR 2004-0383-PR (decision order filed Apr. 12, 2005); *State v. Roush*, No. 2 CA-CR 2002-0143-PR (memorandum decision filed Nov. 12, 2002).

**¶3**		In September 2014, Roush filed another notice of post-conviction relief, along with a petition that did not comply with Rule 32.5. The trial court denied Roush's request to expand the page limit provided in that rule, but gave him thirty days to file a compliant petition. Roush filed a motion to extend that time, but the

court denied it, concluding he had not stated sufficient grounds. The court ordered the petition dismissed, effectively dismissing the proceeding, and Roush filed a petition for review.

**¶4** On review, to the extent we understand his argument, Roush contends the trial court should not have dismissed his petition, asserting the court lacked jurisdiction based on alleged errors relating to his indictment. Roush also claims other-acts evidence should not have been admitted and asserts what he describes as a claim of actual innocence, but is in fact another challenge to his indictment.

**¶5** Roush does not, however, explain how the trial court abused its discretion in dismissing his petition based on his failure to file it within the thirty days required by Rule 32.5. That rule provides that if a petition does not conform to the rule's requirements it "shall be returned by the court to the defendant for revision" within thirty days; if the revised petition is not timely returned, "the court shall dismiss the proceedings with prejudice." Ariz. R. Crim. P. 32.5. Thus, contrary to Roush's unsupported assertion that the court's action was "unsound, unreasonable, illegal, and unsupported by the evidence" and that the court "acted arbitrarily," the court in fact properly applied the rule.[1]

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

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[1]In any event, Roush's petition is untimely and successive, and each of his claims was or could have been raised in previous proceedings and is therefore precluded. *See* Ariz. R. Crim. P. 32.1, 32.2, 32.4.