

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Respondent,

v.

WAYNE R. ENGRAM,
Petitioner.

No. 2 CA-CR 2014-0424-PR
Filed January 26, 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NOT FOR PUBLICATION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 Maricopa County
No. CR2005130608001DT
The Honorable M. Scott McCoy, Judge

REVIEW GRANTED; RELIEF DENIED

COUNSEL

William G. Montgomery, Maricopa County Attorney
By Gerald R. Grant, Deputy County Attorney, Phoenix
Counsel for Respondent

Wayne Engram, Phoenix
In Propria Persona

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MEMORANDUM DECISION

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

H O W A R D, Judge:

¶1 Petitioner Wayne Engram seeks review of the trial court’s order denying his petition for post-conviction relief and motion for rehearing, 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). We find no such abuse here.

¶2 Pursuant to a plea agreement, Engram was convicted of possession or use of a narcotic drug with one prior felony conviction.¹ The trial court sentenced Engram to an enhanced, presumptive, 4.5-year term of imprisonment, to run concurrently with the 2.5- and 1-year sentences imposed as a result of his violation of probation in two other matters. Engram sought post-conviction relief, and appointed counsel filed a notice stating he had reviewed the record and had been “unable to find any claims for relief to raise in post-conviction relief proceedings.” Engram listed approximately sixteen claims in his pro se petition.

¶3 On review, Engram essentially reasserts many of the arguments he raised in his petition below, without explaining how

¹The plea agreement provided, in relevant part, that Engram had committed a prior drug offense in 2000 that would be used to enhance his sentence in this matter; probation was not available; the prosecutor would not make a sentencing recommendation; and the sentence imposed would be between four and five years and concurrent with his sentences in two other matters.

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the trial court abused its discretion in denying those claims. *See* Ariz. R. Crim. P. 32.9(c)(1)(iv) (petition for review shall contain “reasons why the petition should be granted”). Those arguments include, *inter alia*, the following: the plea colloquy and factual basis were inadequate; the court improperly denied his motion to strike his prior conviction; he should have been placed on probation rather than receiving a prison sentence; and, trial counsel was ineffective. Engram also raises various claims not raised in his petition below, which we will not consider on review. *See* Ariz. R. Crim. P. 32.9(c) (party may petition “for review of the actions of the trial court”).

¶4 In a thorough, well-reasoned ruling, the trial court identified the claims Engram had raised and resolved them correctly and in a manner permitting this court to review and determine the propriety of that order. *See State v. Whipple*, 177 Ariz. 272, 274, 866 P.2d 1358, 1360 (App. 1993). The court correctly concluded the claims Engram had raised and discussed were without merit, and properly declined to address several other claims Engram had raised but failed to explain or develop, finding those claims either meritless or waived. *See* Ariz. R. Crim. P. 32.6(c) (after identifying precluded claims, court shall summarily dismiss petition that fails to present “material issue of fact or law which would entitle . . . defendant to relief”). No purpose would be served by restating the court’s ruling in its entirety; rather, we adopt it.² *See Whipple*, 177 Ariz. at 274, 866 P.2d at 1360.

¶5 We additionally note that, to the extent Engram waived some of the claims he raised below by entering a guilty plea, the court was not required to address them on the merits. *See State v. Hamilton*, 142 Ariz. 91, 94, 688 P.2d 983, 986 (1984) (“It is well

²We note two errors in the trial court’s ruling, neither of which impacts our adoption of that ruling: (1) the court mistakenly stated the sentences imposed were consecutive rather than concurrent; and (2) the court mistakenly stated the state had recommended a sentence which was “six months less than the sentence handed down,” when the recommended sentence was actually six months greater than the one imposed.

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established that entry of a valid guilty plea forecloses a defendant from raising nonjurisdictional defects.”) (footnote omitted); *see also State v. Quick*, 177 Ariz. 314, 316, 868 P.2d 327, 329 (App. 1993) (by entering guilty plea defendant waives all nonjurisdictional defects, including claim of ineffective assistance of counsel, except those that relate to validity of plea).

¶6 Because Engram has not sustained his burden on review of establishing the trial court abused its discretion in denying his petition, we grant the petition for review but deny relief.