

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Respondent,

v.

BRUCE ALLEN COLE,
Petitioner.

No. 2 CA-CR 2015-0172-PR
Filed August 31, 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NOT FOR PUBLICATION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. CR20093743001

The Honorable Christopher Browning, Judge

REVIEW GRANTED; RELIEF DENIED

COUNSEL

Barbara LaWall, Pima County Attorney
By Jacob R. Lines, Deputy County Attorney, Tucson
Counsel for Respondent

Bruce A. Cole, Tucson
In Propria Persona

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MEMORANDUM DECISION

Judge Howard authored the decision of the Court, in which Presiding Judge Vásquez and Judge Kelly¹ concurred.

H O W A R D, Judge:

¶1 Petitioner Bruce Cole 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). Cole has not sustained his burden of establishing such abuse here.

¶2 After a jury trial, Cole was convicted of driving under the influence of an intoxicant and criminal damage. The trial court suspended the imposition of sentence and placed Cole on concurrent terms of probation, the longer of which was five years, and required he spend forty-five days in jail as a condition of his probation. This court affirmed Cole’s convictions and the imposition of probation on appeal. *State v. Cole*, No. 2 CA-CR 2012-0498, ¶ 12 (memorandum decision filed Mar. 27, 2014). Cole then sought post-conviction relief, and appointed counsel filed a Rule 32 petition pursuant to *Anders v. California*, 386 U.S. 738 (1967). In a supplemental pro-se petition, Cole asserted he had received ineffective assistance of trial counsel. The court summarily denied relief.

¶3 On review, Cole maintains the trial court’s ruling was “incomplete,” asserting the court either did not address or

¹The Hon. Virginia C. Kelly, a retired judge of this court, is called back to active duty to serve on this case pursuant to orders of this court and our supreme court.

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improperly rejected the claims raised in his petition below, and asks that we “take action deemed appropriate.” He argues on review that he was entitled to relief based on trial counsel’s failure to: present his medical records and information regarding his medical and psychological condition to support a viable defense at trial; examine and apply A.R.S. § 4-251(A)(2) (prohibition against open container of spirituous liquor in passenger compartment of motor vehicle) to his case; ensure he could examine the original photographs introduced by the state at trial rather than black and white copies; and, preserve for appeal issues related to Rule 8, Ariz. R. Crim. P. The court clearly identified Cole’s claims and resolved them correctly based on a thorough, well-reasoned analysis, which we need not repeat. *State v. Whipple*, 177 Ariz. 272, 274, 866 P.2d 1358, 1360 (App. 1993). We adopt the court’s ruling. *See id.*

¶4 Cole also notes he is “alarmed that the [trial] court has the ‘impression that the Petitioner was constantly engaging in conduct’ and ‘engendering repeated conflicts with appointed counsel.’” To the extent Cole is troubled by the court’s statement, part of which it adopted from our ruling on appeal, *see Cole*, No. 2 CA-CR 2012-0498, ¶ 6, we note that this does not constitute a basis for us to conclude the court abused its discretion in denying his petition. *See Swoopes*, 216 Ariz. 390, ¶ 4, 166 P.3d at 948.

¶5 Accordingly, although we grant review, we deny relief.