

IN THE  
**ARIZONA COURT OF APPEALS**  
DIVISION TWO

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THE STATE OF ARIZONA,  
*Respondent,*

*v.*

PAUL ANTHONY ROBLEDO,  
*Petitioner.*

No. 2 CA-CR 2015-0194-PR  
Filed July 1, 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NOT FOR PUBLICATION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 Maricopa County

No. CR2009110121001SE

The Honorable Phemonia L. Miller, Judge Pro Tempore

**REVIEW GRANTED; RELIEF DENIED**

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Paul A. Robledo, Buckeye  
*In Propria Persona*

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MEMORANDUM DECISION

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

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H O W A R D, Judge:

¶1 Paul Robledo petitions for review of the trial court’s summary dismissal of his successive notice of and petition for post-conviction relief, filed pursuant to Rule 32, Ariz. R. Crim. P. We grant review, but we deny relief.

¶2 Pursuant to a guilty plea entered in January 2010, Robledo was convicted of attempted first-degree murder. The trial court imposed the maximum twenty-one year sentence, with 366 days of presentence incarceration credit. Robledo filed his first post-conviction petition in 2010, asserting trial counsel had been ineffective and his aggravated sentence was unlawful under *Blakely v. Washington*, 542 U.S. 296 (2004). This court dismissed as untimely his petition for review of the court’s summary dismissal of that petition. *State v. Robledo*, No. 1 CA-CR 11-0773 PRPC (order filed Nov. 14, 2011). In 2013, Robledo filed a notice of post-conviction relief, raising claims of ineffective assistance of trial counsel, asserting there had been a significant change in the law that would impact his conviction or sentence, and again challenging the validity of his sentence. The trial court summarily dismissed that notice.

¶3 Later in 2013, Robledo filed a notice of and petition for post-conviction relief, asserting trial counsel was ineffective for several reasons, his aggravated sentence was unlawful under *Blakely*, and he had “just learned” that he has a “dissociative identity disorder” which caused him to commit the underlying offense. See Ariz. R. Crim. P. 32.1(e). The trial court summarily dismissed that petition, and this petition for review followed. We review a trial court’s summary dismissal of post-conviction relief for an abuse of

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discretion. *State v. Bennett*, 213 Ariz. 562, ¶ 17, 146 P.3d 63, 67 (2006). We find no such abuse here.

¶4 In its minute entry ruling dismissing the petition, the trial court found Robledo had failed “to provide any facts, affidavits, records, or other evidence to support” why his diagnosis with dissociative identity disorder “could not have been discovered and produced at trial through reasonable diligence.” See *State v. Saenz*, 197 Ariz. 487, ¶ 13, 4 P.3d 1030, 1033 (App. 2000) (“Evidence is not newly discovered unless it was unknown to the trial court, the defendant, or counsel at the time of trial and neither the defendant nor counsel could have known about its existence by the exercise of due diligence.”). The court also concluded Robledo’s claims of ineffective assistance of trial counsel and an illegal sentence were precluded because they could have been raised in previous proceedings. See Ariz. R. Crim. P. 32.2(a); Rule 32.4(a) (“Any notice [of post-conviction relief] not timely filed may only raise claims pursuant to Rule 32.1(d), (e), (f), (g) or (h).”).

¶5 On review, Robledo argues that his mental illness, dissociative identity disorder, “was newly discovered in January 2012,” and contends certain records in the possession of the Arizona Department of Corrections, which he maintains are unavailable to him, somehow would have proven that his condition was newly discovered. He also reasserts that his sentence was illegal and trial counsel was ineffective.

¶6 As to any claim of newly discovered evidence based on dissociative identity disorder, we conclude the trial court correctly dismissed this claim. To be entitled to relief on a claim of newly discovered evidence, a defendant must first demonstrate the evidence is, in fact, newly discovered. See *State v. Serna*, 167 Ariz. 373, 374, 807 P.2d 1109, 1110 (1991) (describing five elements of successful newly discovered evidence claim). Other than asserting that his mental condition, which he contends existed all his life but was “newly discovered in January 2012,” should be treated as newly discovered evidence, Robledo has utterly failed to establish such a claim, as the trial court correctly concluded. Nor has Robledo explained why, at the very least, he did not raise this claim in his

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second Rule 32 proceeding, which he filed in July 2013, after the January 2012 “discovery” of this evidence.<sup>1</sup> In addition, the court correctly found Robledo was precluded from raising claims that trial counsel had rendered ineffective assistance and that his sentence was illegal, as he could have, and in fact did, raise related claims in his first two Rule 32 proceedings. *See* Ariz. R. Crim. P. 32.2(a).

¶7 Finally, to the extent Robledo also asserts his first Rule 32 counsel was ineffective, and the fact that “one of his personalities” has rendered him mute somehow supports his contention that his mental condition was newly discovered, we do not address these claims, raised for the first time on review. *See* Ariz. R. Crim. P. 32.9(c)(1)(ii) (petition for review to contain issues “decided by the trial court . . . which the defendant wishes to present to the appellate court for review”); *State v. Ramirez*, 126 Ariz. 464, 468, 616 P.2d 924, 928 (App. 1980) (appellate court does not consider issues in petition for review that “have obviously never been presented to the trial court for its consideration”).

¶8 Therefore, we grant review but deny relief.

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<sup>1</sup>Notably, in Robledo’s second notice of post-conviction relief, he specifically asserted “a voice (that I [now] know was another personality) committed the crime which does not make me innocent but makes the crime non-premeditated.”