IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Respondent,

v.

JACOB EVAN HOCKER,
Petitioner.

No. 2 CA-CR 2015-0288-PR
Filed October 13, 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NOT FOR PUBLICATION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 Cochise County
No. CR201300574
The Honorable Karl D. Elledge, Judge

REVIEW GRANTED; RELIEF DENIED

Jacob Evan Hocker, Sierra Vista
In Propria Persona

MEMORANDUM DECISION

Presiding Judge Vásquez authored the decision of the Court, in which Judge Howard and Judge Brammer[1] concurred.

V Á S Q U E Z, Presiding Judge:

¶1 Jacob Hocker seeks review of the trial court's order summarily dismissing his of-right petition for post-conviction relief filed pursuant to Rule 32, Ariz. R. Crim. P. We will not disturb that order unless the court clearly abused its discretion. *See State v. Swoopes*, 216 Ariz. 390, ¶ 4, 166 P.3d 945, 948 (App. 2007). Hocker has not met his burden of demonstrating such abuse here.

¶2 Hocker pled guilty to attempted arson of an occupied structure. He was a juvenile at the time of his offense. The trial court suspended the imposition of sentence and placed Hocker on a five-year term of probation.

¶3 Hocker sought post-conviction relief, and appointed counsel filed a notice stating she had reviewed the record but was "unable to find any issues to raise for post-conviction relief." Hocker then filed a pro se petition claiming: (1) the state failed to advise him of his legal rights before interviewing him and violated his rights in interviewing him without counsel present; (2) his trial and Rule 32 counsel were ineffective; (3) the state untimely disclosed evidence and "use[d] perjured testimony" incorrectly identifying him as a participant; (4) his counsel induced him to plead guilty by pressuring him and failing "to subject the prosecution's case to meaningful adversarial testing"; (5) he was unlawfully denied a juvenile transfer hearing pursuant to A.R.S. § 13-504; (6) his bail was excessive; (7) newly discovered material evidence existed "which

[1]The Hon. J. William Brammer, Jr., 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.

would have required the court to vacate [his] conviction"; and (8) the trial court lacked jurisdiction because his case should have been transferred to juvenile court. The trial court summarily denied relief, and this petition for review followed.

¶4 On review, Hocker summarily repeats several of the assertions he made below: that he was not made aware of his rights before police questioning, that he was not provided a juvenile transfer hearing pursuant to § 13-504, that his counsel failed to adequately review his case before pressuring him into pleading guilty, and that he is innocent. He asks that we "[r]eview" the attached petition for post-conviction relief.

¶5 Hocker has not identified any error in the trial court's reasoning or any other basis for us to disturb its ruling. *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"). And his attempt to incorporate by reference the petition filed below is not permitted by our rules. *See State v. Bortz*, 169 Ariz. 575, 577, 821 P.2d 236, 238 (App. 1991).

¶6 In any event, we have reviewed the claims Hocker summarizes in his petition for review and conclude the trial court was correct to summarily reject them. By pleading guilty, Hocker waived all nonjurisdictional defects, including claims of ineffective assistance of counsel other than those related to the validity of his guilty plea. *See State v. Quick*, 177 Ariz. 314, 316, 868 P.2d 327, 329 (App. 1993). Thus, he has waived any claim that he was not properly advised of his rights before questioning, and, although he asserts counsel improperly pressured him to plead guilty, he has provided no evidence to support that claim. *See State v. Donald*, 198 Ariz. 406, ¶ 17, 10 P.3d 1193, 1200 (App. 2000) (to obtain post-conviction evidentiary hearing, defendant should support allegations with sworn statements).

¶7 Hocker's claims of actual innocence and newly discovered evidence appear to be based on unsubstantiated claims of false statements by police officers, as well as transcripts of a conversation involving one of his codefendants on a social media

site purportedly showing a scheme to "'get revenge on [Hocker].'" These claims warrant summary rejection in light of Hocker's admission during his plea colloquy that he had committed the offense. *See* Ariz. R. Crim. P. 32.1(e) (claim of newly discovered evidence requires showing evidence "probably would have changed the verdict"), 32.1(h) (claim of actual innocence requires "clear and convincing evidence that the facts underlying the claim would be sufficient to establish that no reasonable fact-finder would have found defendant guilty of the underlying offense beyond a reasonable doubt"). Hocker must do more than contradict what the record plainly shows. *See State v. Jenkins*, 193 Ariz. 115, ¶ 15, 970 P.2d 947, 952 (App. 1998) (defendant's claim he was unaware sentence "must be served without possibility of early release" not colorable when "directly contradicted by the record"). Finally, we have found no Arizona authority suggesting that the failure to conduct a juvenile transfer hearing—even assuming Hocker was entitled to one—is a jurisdictional defect. Thus, he has waived this argument by entering a guilty plea. *See Quick*, 177 Ariz. at 316, 868 P.2d at 329.

¶8 Although we grant review, we deny relief.