

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

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THE STATE OF ARIZONA,  
*Respondent,*

*v.*

RUEBEN RAY FREDERICK BEARD NEAL,  
*Petitioner.*

No. 2 CA-CR 2015-0386-PR  
Filed November 30, 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NOT FOR PUBLICATION  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. CR2010116616001DT  
The Honorable Sherry K. Stephens, Judge

**REVIEW GRANTED; RELIEF DENIED**

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Rueben R. F. B. Neal, San Luis  
*In Propria Persona*

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**MEMORANDUM DECISION**

Presiding Judge Vásquez authored the decision of the Court, in which Judge Howard and Judge Kelly<sup>1</sup> concurred.

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V Á S Q U E Z, Presiding Judge:

¶1 Petitioner Rueben Neal seeks review of the trial court’s order dismissing 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). Neal has not sustained his burden of establishing such abuse here.

¶2 Following a jury trial, Neal was convicted of second-degree murder. The trial court imposed a mitigated, fifteen-year prison term with 519 days of presentence incarceration credit. We affirmed Neal’s conviction and sentence on appeal. *State v. Neal*, No. 1 CA-CR 11-0626 (memorandum decision filed Feb. 7, 2013). Neal subsequently filed a petition for post-conviction relief, arguing trial counsel had been ineffective by failing to object to that portion of the jury instruction on second-degree murder dealing with “recklessly engag[ing] in conduct that created a grave risk of death” and by failing to request a separate instruction defining recklessness. Neal attached as an exhibit to his petition an affidavit of one of the jurors expressing confusion regarding the jury instruction for second-degree murder. The trial court summarily dismissed the petition. This pro se petition for review followed.

¶3 On review, Neal again suggests trial counsel was ineffective and asks that we vacate the verdict and set aside his

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<sup>1</sup>The 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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sentence. We cannot say the trial court abused its discretion in denying Neal’s petition for post-conviction relief. The court clearly identified the claim he had raised and resolved it correctly in a thorough, well-reasoned minute entry. We adopt the ruling. *See State v. Whipple*, 177 Ariz. 272, 274, 866 P.2d 1358, 1360 (App. 1993) (when trial court has correctly ruled on issues “in a fashion that will allow any court in the future to understand the resolution[, n]o useful purpose would be served by this court rehashing the trial court’s correct ruling in a written decision”).

¶4 In addition, we do not address claims raised for the first time on review. *See State v. Ramirez*, 126 Ariz. 464, 468, 616 P.2d 924, 928 (App. 1980) (court of appeals does not address issues raised for first time in petition for review); *see also* Ariz. R. Crim. P. 32.9(c)(1)(ii) (petition for review shall contain “issues which were decided by the trial court and which the defendant wishes to present to the appellate court for review”). Thus, we do not address Neal’s assertions that the trial judge should have recused herself; appellate and Rule 32 counsel were ineffective; he is legally and actually innocent; the prosecutor acted in a vindictive manner; the verdicts were inconsistent; and, there was insufficient evidence to convict him of second-degree murder.<sup>2</sup> Nor do we consider exhibits Neal has included in his appendix to the petition for review that were not presented to the trial court as part of his petition below. *See Ramirez*, 126 Ariz. at 468, 616 P.2d at 928 (issues raised for first time in motion for rehearing not properly before court).

¶5 Although we grant the petition for review, we deny relief.

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<sup>2</sup>On appeal, we determined that “the record contains ample evidence upon which the jury could reasonably have convicted Neal of second[-]degree murder.” *Neal*, No. 1 CA-CR 11-0626, n.3.