

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Respondent,

v.

JOHNNY TRAVIS GOSWICK,
Petitioner.

No. 2 CA-CR 2015-0411-PR
Filed December 10, 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NOT FOR PUBLICATION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. CR1995006964
The Honorable M. Scott McCoy, Judge

REVIEW GRANTED; RELIEF DENIED

Johnny T. Goswick, Buckeye
In Propria Persona

STATE v. GOSWICK
Decision of the Court

MEMORANDUM DECISION

Chief Judge Eckerstrom authored the decision of the Court, in which Presiding Judge Miller and Judge Espinosa concurred.

ECKERSTROM, Chief Judge:

¶1 Petitioner Johnny Goswick seeks review of the trial court's order dismissing his notice of 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). Goswick has not sustained his burden of establishing such abuse here.

¶2 In 1996, Goswick pled guilty to second-degree murder, and the trial court imposed an aggravated, twenty-two-year prison term. In 2014, Goswick initiated his first Rule 32 proceeding by simultaneously filing a pro se notice of and petition for post-conviction relief. He checked the box on the notice indicating that he was raising a claim based on newly discovered evidence, stating that he had "just met a paralegal who noted that my sentence has a problem." The trial court summarily dismissed the notice as untimely, and this petition for review followed.¹

¶3 On review, Goswick argues the trial court improperly dismissed his Rule 32 proceeding, asserting that "[s]ince this was [his] FIRST PCR, the dismissal was NOT warranted, as every

¹In his petition for post-conviction relief, Goswick also argued counsel was ineffective for failing to correct the purported sentencing error. By dismissing Goswick's notice of post-conviction relief as untimely, the trial court inferentially dismissed his petition as well.

STATE v. GOSWICK
Decision of the Court

criminal defendant has a right to appeal. In [his] case, his appeal is a PCR.” Arguing that his claim falls under “one” of the exceptions set forth in Rule 32.1(d), (e), (f), (g), and (h), Goswick maintains the court’s having dismissed his notice without conducting an evidentiary hearing violated his constitutional right to “true” access to the courts.

¶4 We cannot say the trial court abused its discretion in dismissing Goswick’s notice of post-conviction relief. The court clearly identified the claim he had raised and resolved it correctly in a thorough, well-reasoned minute entry. Specifically, the trial court found that Goswick’s sentencing claim is more properly characterized as a claim under Rule 32.1(c) rather than Rule 32.1(e), thus rendering it untimely. We adopt that 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”). Contrary to Goswick’s belief, the fact that this is his first Rule 32 proceeding does not, in and of itself, entitle him to initiate it in an untimely manner. *See Ariz. R. Crim. P. 32.2(b), 32.4(a)*.

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