

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

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DALE MAISANO,  
*Plaintiff/Appellant,*

*v.*

WARDEN GREG FIZER,  
*Defendant/Appellee.*

No. 2 CA-CV 2015-0054  
Filed August 25, 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NOT FOR PUBLICATION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. Civ. App. P. 28(a)(1), (f).*

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Appeal from the Superior Court in Pinal County  
No. S1100CV201500381  
The Honorable Jason R. Holmberg, Judge

**AFFIRMED**

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Dale Maisano, Florence  
*In Propria Persona*

**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 Dale Maisano appeals from the trial court’s dismissal of his petition for writ of habeas corpus. For the following reasons, we affirm.

**Factual and Procedural Background**

¶2 Maisano is incarcerated in the Department of Corrections (DOC). He filed a petition for writ of habeas corpus in February 2015, alleging prison officials had disregarded his doctor’s orders that he stay out of the sun, denied him food, and exposed him to valley fever. The trial court dismissed the petition, finding the complaint “d[id] not meet the standards” of Rule 8, Ariz. R. Civ. P., because it stated only legal conclusions without any supporting factual allegations.<sup>2</sup>

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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 the supreme court.

<sup>2</sup>The trial court noted that Maisano previously had been declared a vexatious litigant by the presiding judge of the Superior Court in Pinal County pursuant to A.R.S. § 12-3201. Accordingly, the court correctly noted that it had the inherent power to determine whether an action has merit to be pursued. *Madison v. Groseth*, 230 Ariz. 8, ¶ 17, 279 P.3d 633, 639 (App. 2012) (“Arizona courts possess inherent authority to curtail a vexatious litigant’s ability to initiate additional lawsuits.”).

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**Discussion**

¶3 We review for an abuse of discretion a trial court’s ruling on a petition for writ of habeas corpus. *See State v. Cowles*, 207 Ariz. 8, ¶ 3, 82 P.3d 369, 370 (App. 2004). A writ of habeas corpus “should never be issued unless the petition therefor shows upon its face that the petitioner is entitled to be discharged.” *State v. Superior Court of Pinal Cnty.*, 22 Ariz. 452, 459, 197 P. 537, 539 (1921). Here, Maisano does not address the court’s conclusion that his complaint does not comply with Rule 8. Failure to properly raise an argument on appeal generally results in waiver of that argument, *see Schabel v. Deer Valley Unified Sch. Dist. No. 97*, 186 Ariz. 161, 167, 920 P.2d 41, 47 (App. 1996), and “[i]t is not incumbent upon [this] court to develop an argument for a party,” *see Ace Auto. Prods., Inc. v. Van Duyne*, 156 Ariz. 140, 143, 750 P.2d 898, 901 (App. 1987).

¶4 In his opening brief, Maisano suggests he has suffered psychological “torture” and physical abuse and has received inadequate medical care while in the custody of DOC. He also alleges prison officials have prevented him from consulting with other inmates about legal matters, denied him access to the courts, and retaliated against him because he has exercised his right to access the courts.<sup>3</sup> Maisano has not argued, much less established, that the trial court abused its discretion by dismissing his petition. *See Brown v. State*, 117 Ariz. 476, 477, 573 P.2d 876, 877 (1978) (finding “petitioner is not entitled to habeas corpus relief because he does not allege any facts which show that he is entitled to immediate release from custody”).

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<sup>3</sup>Maisano attaches several exhibits to his brief, none of which were attached to his petition for writ of habeas corpus, and some of which contain legal arguments that were not presented to the trial court. We disregard any exhibits, arguments, and facts set forth in Maisano’s brief that were not presented or considered below. *See Crook v. Anderson*, 115 Ariz. 402, 403-04, 565 P.2d 908, 909-10 (App. 1977).

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**Conclusion**

¶5 We affirm the trial court's order dismissing Maisano's petition.