

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Respondent,

v.

JUSTIN RICHARD SOBOLIK,
Petitioner.

No. 2 CA-CR 2016-0226-PR
Filed August 2, 2016

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NOT FOR PUBLICATION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. CR2007127421001SE
The Honorable Susanna C. Pineda, Judge

REVIEW GRANTED; RELIEF DENIED

COUNSEL

William G. Montgomery, Maricopa County Attorney
By Karen Kemper, Deputy County Attorney, Phoenix
Counsel for Respondent

Droban & Company PC, Anthem
By Kerrie M. Droban
Counsel for Petitioner

STATE v. SOBOLIK
Decision of the Court

MEMORANDUM DECISION

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

E C K E R S T R O M, Chief Judge:

¶1 Petitioner Justin Sobolik 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). Sobolik has not sustained his burden of establishing such abuse here.

¶2 After a bench trial, Sobolik was convicted of child abuse and first-degree murder, both dangerous crimes against children and domestic violence offenses. The trial court imposed a seventeen-year prison term for child abuse to be followed by a sentence of life without the possibility of release for thirty-five years for the murder conviction. The convictions and sentences were affirmed on appeal. *State v. Sobolik*, No. 1 CA-CR 11-0232 (Ariz. App. June 5, 2012) (mem. decision).

¶3 Sobolik initiated a proceeding for post-conviction relief, arguing in his petition that he had received ineffective assistance of trial counsel based on counsel’s failure “to secure a biomechanics expert to rebut the State’s medical examiner’s testimony.” The trial court summarily denied relief, concluding that counsel’s decision fell “within the wide range” of conduct that “might be considered sound trial strategy,” *Strickland v. Washington*, 466 U.S. 668, 689 (1984), quoting *Michel v. Louisiana*, 350 U.S. 91, 101 (1955), and that Sobolik had not been prejudiced by the decision. More specifically, the court determined that defense counsel presented at trial the opinion of an expert that “mirror[ed] much of the evidence of the

STATE v. SOBOLIK
Decision of the Court

proposed biomechanical expert [proffered in the Rule 32 proceedings].”

¶4 On review, Sobolik repeats his argument presented below and asks this court to remand his case for an evidentiary hearing. As the state points out, however, Sobolik has not “identif[ied] any misapplication of the law by the trial court.” And we cannot say the court abused its discretion in denying his petition for post-conviction relief. The court clearly identified the claims raised and resolved them correctly in a thorough, well-reasoned minute entry, which we adopt. *See State v. Whipple*, 177 Ariz. 272, 274, 866 P.2d 1358, 1360 (App. 1993) (when trial court correctly ruled on issues raised “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”).

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