

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Respondent,

v.

MICHAEL LEE SCHAFER JR.,
Petitioner.

No. 2 CA-CR 2016-0286-PR
Filed October 19, 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NOT FOR PUBLICATION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 Pima County
No. CR20132744001
The Honorable Jane L. Eikleberry, Judge

REVIEW GRANTED; RELIEF DENIED

COUNSEL

The Law Offices of Stephanie K. Bond, P.C., Tucson
By Stephanie K. Bond
Counsel for Petitioner

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MEMORANDUM DECISION

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

V Á S Q U E Z, Presiding Judge:

¶1 Michael Schafer Jr. seeks review of the trial court’s order denying his 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. *State v. Roseberry*, 237 Ariz. 507, ¶ 7, 353 P.3d 847, 848 (2015). Schafer has not met his burden of demonstrating such abuse here.

¶2 After a jury trial, Schafer was convicted of conspiracy, second-degree burglary, aggravated robbery, and aggravated assault. The trial court sentenced him to concurrent prison terms, the longest of which are 11.25 years. We affirmed his convictions and sentences on appeal. *State v. Schafer*, No. 2 CA-CR 2014-0448 (Ariz. App. Nov. 6, 2015) (mem. decision).

¶3 Schafer sought post-conviction relief, arguing his trial counsel had been ineffective in declining to: (1) call a witness who purportedly would have contradicted the testimony of one of Schafer’s coconspirators; (2) ask another witness, Schafer’s brother, about an alleged conversation with that coconspirator, which purportedly would have exculpated Schafer; and (3) request certain jury instructions. The trial court summarily rejected those claims. It determined counsel had made a tactical decision in deciding which witnesses to call and what testimony to elicit, particularly in light of the first potential witness appearing intoxicated when she arrived to testify, the “clear motive” of Schafer’s brother to testify to Schafer’s benefit, and the unlikelihood that his story was true. It further suggested the testimony would not have altered the result of the trial in any event. The court found Schafer’s claim regarding jury instructions was precluded. This petition for review followed.

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¶4 On review, Schafer repeats his claims that counsel should have presented the testimony of the first witness and elicited additional testimony from his brother.¹ But he develops no argument explaining why he believes the trial court’s ruling is legally or factually incorrect, and his petition for review is a near-verbatim recitation of the claims he presented to the court in his petition below. See Ariz. R. Crim. P. 32.9(c)(1)(iv) (petition for review must contain “reasons why the petition should be granted”). In the absence of any developed argument that the court erred in rejecting those claims, we are compelled to deny relief. See *State v. Stefanovich*, 232 Ariz. 154, ¶ 16, 302 P.3d 679, 683 (App. 2013) (insufficient argument waives claim on review).

¶5 We grant review but deny relief.

¹Schafer has abandoned his claim that counsel was ineffective in failing to request certain jury instructions. See Ariz. R. Crim. P. 32.9(c)(1) (petition for review shall contain “[t]he reasons why the petition should be granted” and “specific references to the record”); *State v. Rodriguez*, 227 Ariz. 58, n.4, 251 P.3d 1045, 1048 n.4 (App. 2010) (declining to address argument not raised in petition for review).