

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

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THE STATE OF ARIZONA,  
*Respondent,*

*v.*

CARLOS ROBLES,  
*Petitioner.*

No. 2 CA-CR 2016-0397-PR  
Filed March 14, 2017

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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NOT FOR PUBLICATION  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 Pima County  
No. CR20050205  
The Honorable Jane L. Eikleberry, Judge

**REVIEW GRANTED; RELIEF DENIED**

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Carlos Robles, San Luis  
*In Propria Persona*

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MEMORANDUM DECISION

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

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VÁSQUEZ, Judge:

¶1 Carlos Robles seeks review of the trial court’s ruling summarily dismissing his untimely and successive notice of post-conviction relief filed pursuant to Rule 32, Ariz. R. Crim. P. We will not disturb that ruling unless the court clearly abused its discretion. *State v. Roseberry*, 237 Ariz. 507, ¶ 7, 353 P.3d 847, 848 (2015). Robles has not met his burden of demonstrating such abuse here.

¶2 After a jury trial, Robles was found guilty of first-degree murder and attempted first-degree murder. The trial court sentenced him to a natural life prison term for murder, to be followed by a 10.5-year prison term for attempted murder. We affirmed his convictions and sentences on appeal. *State v. Robles*, No. 2 CA-CR 2006-0080 (Ariz. App. Oct. 11, 2007) (mem. decision). Robles then sought post-conviction relief, which the trial court denied, and this court denied relief on review. *State v. Robles*, No. 2 CA-CR 2010-0046-PR (Ariz. App. May 14, 2010) (mem. decision).

¶3 In October 2016, Robles filed a notice of post-conviction relief asserting *McKinney v. Ryan*, 813 F.3d 798 (9th Cir. 2015), constituted a significant change in the law pursuant to Rule 32.1(g). He argued, pursuant to *McKinney*, that he was entitled to be resentenced because the court had not considered at sentencing evidence concerning his mental health history and “dysfunctional” family background. The trial court summarily dismissed Robles’s notice, stating inter alia that *McKinney*, which addressed “the Arizona Supreme Court’s refusal, as a matter of law, to consider nonstatutory mitigating factors” in a capital case, had no application to Robles because the state did not seek the death penalty and that “there [was] no indication” the sentencing court had declined, “as a matter of law,”

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to consider nonstatutory mitigating factors. This petition for review followed.

¶4 On review, *Robles* repeats his claim that *McKinney* is a significant change in the law applicable to his case. See Ariz. R. Crim. P. 32.1(g), 32.4(a). But the Ninth Circuit in *McKinney* addressed no issue relevant to this case. Instead, the court determined the so-called “causal nexus text” for mitigation evidence in capital cases was “contrary to clearly established federal law.” *McKinney*, 813 F.3d at 815-16, 819. As the trial court correctly pointed out, however, Robles did not face the death penalty. Nor has Robles identified anything suggesting the court refused to consider mitigating evidence because the evidence lacked a causal connection to his offenses. Thus, the trial court did not err in summarily dismissing Robles’s notice. Ariz. R. Crim. P. 32.2(b) (requiring summary dismissal of notice lacking “meritorious reasons . . . substantiating the claim”).

¶5 We grant review but deny relief.