IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Respondent,

v.

IVORIE PHILLIP WEATHERSPOON,
Petitioner.

No. 2 CA-CR 2017-0009-PR
Filed February 13, 2017

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NOT FOR PUBLICATION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. CR2011134439001DT
The Honorable Roger E. Brodman, Judge

REVIEW GRANTED; RELIEF DENIED

COUNSEL

William G. Montgomery, Maricopa County Attorney
By Susan L. Luder, Deputy County Attorney, Phoenix
Counsel for Respondent

Rosenquist & Associates, LLC, Anthem
By Anders Rosenquist Jr.
Counsel for Petitioner

MEMORANDUM DECISION

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

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

¶1 Petitioner Ivorie Weatherspoon 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). Weatherspoon has not sustained his burden of establishing such abuse.

¶2 After a jury trial, Weatherspoon was convicted of possession of more than four pounds of marijuana and possession of drug paraphernalia. The trial court sentenced him to concurrent prison terms, the longer of which was 17.75 years. The convictions and sentences were affirmed on appeal. *State v. Weatherspoon*, No. 1 CA-CR 12-0160 (Ariz. App. Feb. 25, 2014) (mem. decision).

¶3 Weatherspoon thereafter sought post-conviction relief, arguing his Fourth Amendment rights had been violated by searches of the hotel room in which he was found at the time of arrest, and asserting he had received ineffective assistance of counsel based on "counsel's failure to do any interviews or research prior to trial." He specifically asserts counsel should have discovered that the "bounty hunters" who discovered him at the hotel had "committed Class 5 felonies by entering [his] hotel room without knocking or getting consent," should have filed motions to suppress evidence based on Fourth Amendment violations, and should not have declined a jury instruction relating to Weatherspoon having been "taken into custody." He also argued appellate counsel had been ineffective in failing to raise a claim based on trial counsel's "objection to

characterizing [the bounty hunters] as 'persons licensed by the Department of Insurance, who had a legal right to take Weatherspoon into custody.'" Finally he contended he was entitled to relief based on the cumulative effect of the alleged errors at trial. The trial court summarily denied relief.

¶4 On review, Weatherspoon repeats his arguments made below and asserts the trial court erred in concluding his Fourth Amendment claim was precluded and in failing to address his claim of cumulative error. He contends his Fourth Amendment claims should not be precluded because the "issue could not have been raised on [his] direct appeal because defense counsel never filed a motion to suppress or otherwise objected" and his "appellate counsel specifically advised him that [the] claims could not be raised in the direct appeal." Rule 32.2(a)(3), however, precludes all claims "waived at trial, on appeal, or in any previous collateral proceeding." Therefore, although a claim of ineffective assistance based on these claims may be raised, any claim of error in regard to the suppression issue itself is precluded.

¶5 Likewise, although Weatherspoon is correct that the trial court did not specifically address his claim of cumulative error, we cannot say the court abused its discretion in implicitly rejecting it. "[W]e have never recognized a 'cumulative error' theory . . . [i]nstead, we evaluate each of defendant's claimed errors and determine if it, independently, requires reversal." *State v. Prince*, 160 Ariz. 268, 274, 772 P.2d 1121, 1127 (1989). The court clearly identified and correctly addressed the remainder of Weatherspoon's arguments in its ruling, which we adopt. *State v. Whipple*, 177 Ariz. 272, 274, 866 P.2d 1358, 1360 (App. 1993) (when trial court has 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").

¶6 We grant the petition for review, but deny relief.