

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

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THE STATE OF ARIZONA,  
*Respondent,*

*v.*

IRA JOE ANDERSON,  
*Petitioner.*

No. 2 CA-CR 2017-0010-PR  
Filed February 3, 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NOT FOR PUBLICATION  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 Maricopa County  
No. CR2010005422001DT  
The Honorable Karen L. O'Connor, Judge

**REVIEW DENIED**

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Ira Joe Anderson, Florence  
*In Propria Persona*

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**MEMORANDUM DECISION**

Judge Miller authored the decision of the Court, in which Presiding Judge Staring and Judge Espinosa concurred.

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M I L L E R, Judge:

¶1 Petitioner Ira Anderson seeks review of the trial court’s order dismissing his notice of 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). Anderson has not sustained his burden of establishing such abuse here.

¶2 After a jury trial, Anderson was convicted of conspiracy to commit first-degree murder and conspiracy to commit kidnapping. The trial court imposed a sentence of lifetime imprisonment without the possibility of release for twenty-five years on the conspiracy to commit murder conviction and a consecutive five-year prison term for conspiracy to commit kidnapping. Anderson’s convictions were affirmed on appeal and his sentences were affirmed as modified in regard to presentence incarceration credit and restitution. *State v. Anderson*, Nos. 1 CA-CR 11-0396, 1 CA-CR 11-0497 (Ariz. App. Oct. 2, 2012) (consol. mem. decision).

¶3 Anderson thereafter sought post-conviction relief and appointed counsel filed a notice stating she had reviewed the record and was “unable to discern any colorable claim upon which to base a Petition for Post-Conviction Relief.” After Anderson failed to file a pro se supplemental petition, the trial court dismissed the proceeding in April 2013. In November 2014, Anderson filed another notice of post-conviction relief, marking the portion of the notice form for a claim pursuant to Rule 32.1(f) and stating he had believed his attorney had filed “this Notice of Post Conviction Relief in 2012.” The trial court summarily denied relief, noting that

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Anderson's notice had not been filed in an "of right" proceeding and that he was therefore not entitled to relief under Rule 32.1(f) (addressing failure to file of-right notice).

¶4 On review, Anderson asserts claims of ineffective assistance of trial and appellate counsel, bias on the part of the trial judge, "unconstitutional suppression of evidence by the State," and "unconstitutional use by the State of perjured testimony." These are claims that could and should have been asserted in a pro se supplemental petition. Moreover, he does not address the trial court's correct conclusion that, because this proceeding is not "of-right," as defined by Rule 32.1, he is not entitled to post-conviction relief pursuant to Rule 32.1(f). Finally, he sets forth no argument that his claims are not untimely or precluded. *See* Ariz. R. Crim. P. 32.2, 32.4(a).

¶5 Therefore, we deny the petition for review.