

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Respondent,

v.

ERIC SHAW GIBSON,
Petitioner.

No. 2 CA-CR 2017-0012-PR
Filed February 10, 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NOT FOR PUBLICATION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. CR2010102973001SE
The Honorable Susanna C. Pineda, Judge

REVIEW GRANTED; RELIEF DENIED

COUNSEL

William G. Montgomery, Maricopa County Attorney
By Lisa Marie Martin, Deputy County Attorney, Phoenix
Counsel for Respondent

Eric Shaw Gibson, Buckeye
In Propria Persona

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MEMORANDUM DECISION

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

S T A R I N G, Presiding Judge:

¶1 Petitioner Eric Gibson 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 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). Gibson has not sustained his burden of establishing such abuse here.

¶2 After a jury trial, Gibson was convicted of weapons misconduct, and the trial court imposed an enhanced, aggravated, fifteen-year term of imprisonment. The conviction and sentence were affirmed on appeal. *State v. Gibson*, No. 1 CA-CR 11-0620 (Ariz. App. Feb. 12, 2013) (decision order). Gibson thereafter sought post-conviction relief, and appointed counsel filed a notice stating she had reviewed the record and was “unable to find a tenable issue” to raise pursuant to Rule 32. In a supplemental pro se petition, however, Gibson argued he had received ineffective assistance of trial, appellate, and Rule 32 counsel. Specifically, he claimed his attorneys had been ineffective because none had “raise[d] the issue that [he] never rec[ei]ved any type of indictment and was never given a preliminary hearing, denying the defendant of his due process right.” He also claimed the lack of an indictment or preliminary hearing “resulted in structural error,” requiring reversal of his conviction. The trial court summarily denied relief in a thorough, well-reasoned minute entry.

¶3 On review, Gibson again argues he received ineffective assistance of counsel based on the lack of a preliminary hearing and contends the trial court abused its discretion in denying him an

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evidentiary hearing. We disagree and cannot say the court abused its discretion in denying the petition for post-conviction relief. The court clearly identified the claims Gibson raised and resolved them correctly in its ruling, which we adopt. *See 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”).

¶4 Although we grant the petition for review, we deny relief.