

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

---

THE STATE OF ARIZONA,  
*Respondent,*

*v.*

DESMOND DESHAWN WARREN,  
*Petitioner.*

No. 2 CA-CR 2017-0278-PR  
Filed November 14, 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NOT FOR PUBLICATION  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. CR2011152775003DT  
The Honorable Randall H. Warner, Judge

**REVIEW GRANTED; RELIEF DENIED**

---

COUNSEL

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

Janelle A. Mc Eachern, Chandler  
*Counsel for Petitioner*

STATE v. WARREN  
Decision of the Court

---

**MEMORANDUM DECISION**

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

---

BREARCLIFFE, Judge:

¶1 Desmond Warren seeks review of the trial court’s order summarily denying his petition for post-conviction relief. We will not disturb the court’s order unless the court clearly abused its discretion. *See State v. Roseberry*, 237 Ariz. 507, ¶ 7 (2015). Warren has not met his burden of demonstrating such abuse here.

¶2 After a jury trial, Warren was convicted of two counts of weapons misconduct and one count of possession of narcotic drugs. The trial court sentenced him to concurrent prison terms, the longest of which was eleven years. We affirmed his convictions and sentences on appeal. *State v. Warren*, No. 1 CA-CR 12-0481, ¶ 42 (Ariz. App. Mar. 27, 2014) (mem. decision).

¶3 Warren sought post-conviction relief, and appointed counsel filed a notice stating she had reviewed the record but found no “tenable issue” to raise under Rule 32. Warren then filed a pro se petition claiming that his trial counsel had failed adequately or timely to advise him about a plea offer from the state. The trial court set an evidentiary hearing and, at Warren’s request, designated previously appointed counsel as “counsel of record for purposes of the Rule 32 proceedings.” After the evidentiary hearing at which Warren and his trial counsel testified, the court denied relief. It ruled that trial counsel “did not fail to adequately communicate any plea offer to” Warren and “was not deficient” in “plea discussions with the State.” This petition for review followed.

¶4 On review, Warren argues that the trial court erred in denying relief. He claims that, even had counsel advised him of all the plea offers, he nonetheless “might have been confused as to what offer was what” and thus “he is entitled to an opportunity to accept the third and final plea [offer].” Counsel renders ineffective assistance by failing adequately to advise a defendant of a plea offer by the state. *State v. Donald*, 198 Ariz. 406, ¶¶ 9, 16 (App. 2000). If the defendant would have accepted the plea but for

STATE v. WARREN  
Decision of the Court

counsel's deficient performance, a court may order the state to reinstate the plea offer. *Id.* ¶¶ 20, 44-45.

¶5 Warren's argument on review, however, is nothing more than a request that we reweigh the evidence. We will not do so. *See State v. Sasak*, 178 Ariz. 182, 186 (App. 1993). In any event, Warren did not provide this court with a transcript of the evidentiary hearing. *See Ariz. R. Crim. P.* 32.8(e) (requiring court to order certified transcript of evidentiary hearing "upon request of a party"). We therefore presume it supports the trial court's ruling. *See State v. Wilson*, 179 Ariz. 17, 19 n.1 (App. 1993).

¶6 We grant review but deny relief.