

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

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THE STATE OF ARIZONA,  
*Respondent,*

*v.*

MARIA JESUS RIOS,  
*Petitioner.*

No. 2 CA-CR 2018-0037-PR  
Filed July 13, 2018

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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NOT FOR PUBLICATION  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. 31.19(e).*

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Petition for Review from the Superior Court in Pima County  
No. CR20142567001  
The Honorable Greg Sakall, Judge

**REVIEW GRANTED; RELIEF DENIED**

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Maria Jesus Rios, Goodyear  
*In Propria Persona*

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MEMORANDUM DECISION

Presiding Judge Vásquez authored the decision of the Court, in which Judge Staring and Judge Eppich concurred.

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V Á S Q U E Z, Presiding Judge:

¶1 Petitioner Maria Rios seeks review of the trial court’s order denying her 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 (App. 2007). Rios has not sustained her burden of establishing such abuse here.

¶2 After a jury trial, Rios was convicted of possession of marijuana, possession of drug paraphernalia, and second-degree money laundering. The trial court suspended the imposition of sentence and placed her on concurrent, three-year terms of probation. This court affirmed her convictions and probationary terms on appeal. *State v. Rios*, No. 2 CA-CR 2015-0059 (Ariz. App. Mar. 9, 2016) (mem. decision).

¶3 Rios thereafter sought post-conviction relief, and appointed counsel filed a notice stating she had reviewed the record and had been “unable to find any claims for relief to raise in Rule 32 post-conviction proceedings.”<sup>1</sup> In a pro se, supplemental petition, however, Rios argued she had received ineffective assistance of counsel based on trial counsel’s failure to call a particular witness on her behalf. She also argued her statements to officers should not have been admitted at trial because they were neither voluntary nor met the requirements set forth in *Miranda v. Arizona*, 384 U.S. 436 (1966). She further maintained her Fourth

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<sup>1</sup>After notices of post-conviction relief had been filed in this cause and in Pima County cause number CR20142566001, the trial court granted Rios’s motion to consolidate the two matters. Appointed counsel, however, filed a notice of review pursuant to *Montgomery v. Sheldon*, 181 Ariz. 256 (1995), in each cause, and Rios filed a separate pro se, supplemental petition in each cause as well. The trial court consequently issued separate decisions. This court initially consolidated the petitions for review, but upon review of the matters, reversed the order consolidating them.

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Amendment rights were violated. And, she asserted that trial counsel should have filed motions to suppress her statements and the evidence found during the search she contended was unlawful. The trial court summarily denied relief, concluding Rios's claims relating to her statements and the validity of the search were precluded and her claims of ineffective assistance of counsel were not colorable.

¶4 On review, Rios appears to argue preclusion could not apply because she did not knowingly waive any claim and any such waiver "falls back on her counsel." But, unless the claim is of sufficient constitutional magnitude to require a personal waiver, preclusion applies when a defendant merely fails to assert it. *See State v. Espinosa*, 200 Ariz. 503, ¶ 7 (App. 2001). Rios has not established her claims were of sufficient constitutional magnitude to require a personal waiver.

¶5 Rios also argues she should have been "granted a new trial" and again asserts, without citation to legal authority, that counsel was ineffective. But the trial court clearly identified Rios's remaining claims of ineffective assistance of counsel and resolved them correctly in a thorough, well-reasoned ruling, and we adopt that portion of its decision. *See State v. Whipple*, 177 Ariz. 272, 274 (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 Therefore, although we grant the petition for review, we deny relief.