

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Respondent,

v.

RAMON ROJAS DE LA MORA,
Petitioner.

No. 2 CA-CR 2020-0135-PR
Filed December 11, 2020

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NOT FOR PUBLICATION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).

Petition for Review from the Superior Court in Cochise County

No. S0200CR201900057

The Honorable Laura Cardinal, Judge

REVIEW DENIED

Ramon Rojas De La Mora, Florence
In Propria Persona

STATE v. DE LA MORA
Decision of the Court

MEMORANDUM DECISION

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

ESPINOSA, Judge:

¶1 Ramon¹ De La Mora seeks review of the trial court's order summarily dismissing his petition for post-conviction relief filed pursuant to Rule 33, Ariz. R. Crim. P.² For the following reasons, we deny review.

¶2 In July 2019, De La Mora pled no contest to attempted assault of a ten-year-old victim. In accordance with the stipulated terms in the plea agreement, the trial court imposed a thirteen-year prison term, to be served concurrently with the prison term imposed in another matter (the 2018 matter). In September 2019, De La Mora filed a pro se notice of and petition for post-conviction relief.³ After receiving multiple extensions to file a Rule 33 petition, appointed counsel filed a motion to dismiss De La Mora's petition for post-conviction relief in July 2020. In a signed statement filed with the motion, De La Mora requested that his Rule 33 petition be dismissed; indicated he "no longer wish[ed] to contest a judgment of guilt or the sentence entered against" him; and, stated he had discussed the matter fully with his attorney and understood that, barring limited circumstances, he would not be able to file another Rule 33 petition. In an

¹The record refers to De La Mora as both Ramon and Roman; for purposes of clarity, we refer to him as Ramon in this decision.

²Our supreme court amended the post-conviction relief rules, effective January 1, 2020. Ariz. Sup. Ct. Order R-19-0012 (Aug. 29, 2019). "The amendments apply to all cases pending on the effective date unless a court determines that 'applying the rule or amendment would be infeasible or work an injustice.'" *State v. Mendoza*, 249 Ariz. 180, n.1 (App. 2020) (quoting Ariz. Sup. Ct. Order R-19-0012). "Because it is neither infeasible nor works an injustice here, we cite to and apply the current version of the rules." *Id.*

³De La Mora checked the box on the form notice of post-conviction relief indicating he had a previous "Rule 32 proceeding[]." Based on the record before us, and in the context of his arguments on review, it appears he may have been referring to a proceeding in the 2018 matter.

STATE v. DE LA MORA
Decision of the Court

order filed on July 13, 2020, the court granted De La Mora's motion and dismissed the Rule 33 proceeding. This petition for review followed.

¶3 On review, De La Mora does not specifically refer to his motion to dismiss, much less argue how the trial court erred by granting it.⁴ And, although he refers to the court's "Memorandum Decision," there is no such ruling in the record before us, and we thus do not address his related arguments.⁵ See Ariz. R. Crim. P. 33.16(c)(2)(A) (petition for review must contain copy of trial court's ruling). Pointing out that Rule 33 counsel in this matter initially had informed him that she had identified a possible colorable claim, De La Mora suggests the court erred by failing to consider that claim and maintains that counsel was ineffective for failing to have obtained relief on that ground.⁶ He also suggests that the attorney who represented him during the plea proceedings was ineffective. Insofar as De La Mora argues his Rule 33 or plea counsel were ineffective, this court will not address claims not first raised in the trial court and properly presented to this court for review. See *State v. Ramirez*, 126 Ariz. 464, 468 (App. 1980).

¶4 Moreover, because the trial court dismissed De La Mora's Rule 33 proceeding pursuant to his request for dismissal, a ruling he does not expressly challenge, there is nothing for this court to review. Nor does De La Mora's petition for review meaningfully comply with Rule 33.16(c)(2). Accordingly, summary denial of review is justified. See Ariz. R. Crim. P. 33.16(k) (appellate review under Rule 33.16 discretionary).

¶5 Review denied.

⁴Although De La Mora asks us to review the trial court's ruling "entered on 9/16/2019," that is the date he appears to have signed his notice of and petition for post-conviction relief, rather than the date of the court's order dismissing his Rule 33 proceeding.

⁵Although it is unclear, it appears that De La Mora may be referring to a ruling in the 2018 matter, which is not part of the record on review.

⁶In June 2020, Rule 33 counsel filed a motion for informal conference to discuss a "potential resolution . . . that would result in a dismissal of the petition for post-conviction relief," which the trial court granted. Those proceedings, however, are not part of the record before us. And, although counsel subsequently requested an additional extension to file a Rule 33 petition, which the court also granted, she instead filed the underlying motion to dismiss, accompanied by De La Mora's signed statement.