

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Respondent,

v.

ROBERT SAFLEY,
Petitioner.

No. 2 CA-CR 2020-0199-PR
Filed November 25, 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NOT FOR PUBLICATION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 Navajo County
No. S0900CR201500999
The Honorable Dale P. Nielson, Judge

REVIEW DENIED

COUNSEL

Brad Carlyon, Navajo County Attorney
By Michael R. Shumway, Deputy County Attorney, Holbrook
Counsel for Respondent

Robert J. Safley, Florence
In Propria Persona

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MEMORANDUM DECISION

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

ESPINOSA, Judge:

¶1 Robert Safley seeks review of the trial court's order summarily dismissing his petition for post-conviction relief pursuant to Rule 32, Ariz. R. Crim. P.¹ For the following reasons, we deny review.

¶2 After a jury trial, Safley was convicted of child molestation and two counts of contributing to the delinquency of a minor. The trial court sentenced him to a twelve-year prison term for molestation and to time served on the remaining counts. We affirmed his convictions and sentences on appeal. *State v. Safley*, No. 1 CA-CR 18-0220 (Ariz. App. Oct. 2, 2018) (mem. decision).

¶3 Safley sought post-conviction relief, and appointed counsel filed a notice stating he had reviewed the record but found "no basis in fact or law for post-conviction relief." Safley then filed a pro se petition asserting his trial counsel had been ineffective by failing to investigate his case, request a settlement conference, and adequately advise him such that he could "make a reasonably informed decision whether to accept or reject any plea offers made to him." He further asserted the trial court "may have allowed" perjured testimony to which his trial counsel failed to object and that the court failed to conduct a hearing pursuant to *State v. Donald*, 198 Ariz. 406 (App. 2000). The trial court summarily dismissed the proceeding. This petition for review followed.

¹ Our 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.*

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¶4 In his petition for review, Safley broadly asserts he was “poorly represented” by counsel and that “the true events of the case were never disclosed.” He also claims, for the first time on review, that he was “never involved” in his appeal. Safley’s petition does not meaningfully comply with Rule 32.16(c)(2), in that he fails to include a “statement of material facts concerning the issues presented for review” with citations to the record. Nor does he include any argument with “citations to supporting legal authority.” *Id.* Accordingly, summary denial of review is justified. *See* Ariz. R. Crim. P. 32.16(k) (appellate review under Rule 32.16 discretionary); *State v. French*, 198 Ariz. 119, ¶ 9 (App. 2000) (summarily rejecting claims not complying with rules governing form and content of petitions for review), *disapproved on other grounds by Stewart v. Smith*, 202 Ariz. 446, ¶ 10 (2002). And, insofar as Safley argues his appellate counsel was 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).

¶5 Review denied.