

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Respondent,

v.

XAVIER LUIS LOPEZ,
Petitioner.

No. 2 CA-CR 2021-0080-PR
Filed December 20, 2021

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NOT FOR PUBLICATION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 Pima County
No. CR20135274001
The Honorable Javier Chon-Lopez, Judge

REVIEW GRANTED; RELIEF DENIED

COUNSEL

Mark Brnovich, Arizona Attorney General
Nicholas Klingerman, Section Chief Counsel
By Nanette C. Morrow, Assistant Attorney General, Tucson
Counsel for Respondent

Joel Feinman, Pima County Public Defender
By Erin K. Sutherland, Assistant Public Defender, Tucson
Counsel for Petitioner

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MEMORANDUM DECISION

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

BREARCLIFFE, Judge:

¶1 Petitioner Xavier Lopez seeks review of the trial court’s order dismissing his petition for post-conviction relief, filed pursuant to Rule 32, Ariz. R. Crim. P.¹ “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). Lopez has not sustained his burden of establishing such abuse here.

¶2 After a bench trial, Lopez was convicted of three counts of possession of a narcotic drug for sale, one count of money laundering, and two counts of weapons misconduct. The trial court sentenced him to concurrent prison terms, the longest of which are 15.75 years. This court affirmed his convictions and sentences on appeal. *State v. Lopez*, No. 2 CA-CR 2015-0432 (Ariz. App. Oct. 6, 2016) (mem. decision).

¶3 Lopez thereafter initiated a proceeding for post-conviction relief, arguing in his petition that he had received ineffective assistance of trial counsel. He argued counsel had been ineffective in failing to properly investigate, in failing to “adequately advise [him] about [a] plea,” and in waiving certain “constitutional rights without [his] permission or approval.” The trial court summarily denied relief.

¶4 On review, Lopez contends the trial court abused its discretion in dismissing his claims without a hearing. We cannot say the court abused its discretion in denying Lopez’s petition for post-conviction

¹ Our supreme court amended the post-conviction relief rules, effective January 1, 2020. Ariz. Sup. Ct. Order R-19-0012 (Aug. 29, 2019). “Because it is neither infeasible nor works an injustice here, we cite to and apply the current version of the rules.” *State v. Mendoza*, 249 Ariz. 180, n.1 (App. 2020) (“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’” (quoting Ariz. Sup. Ct. Order R-19-0012)).

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relief. The court clearly identified the claims Lopez had raised and resolved them correctly in a thorough, well-reasoned ruling, which we adopt. *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”).

¶5 We grant the petition for review, but deny relief.