

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

PATRICE E. BROWN,
Petitioner/Appellant,

v.

DAVID SHINN, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTIONS,
Respondent/Appellee.

No. 2 CA-HC 2020-0011
Filed April 30, 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NOT FOR PUBLICATION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. Civ. App. P. 28(a)(1), (f).

Appeal from the Superior Court in Pinal County
No. S1100CV202001523
The Honorable Christopher J. O'Neil, Judge

AFFIRMED

Patrice E. Brown, Florence
In Propria Persona

MEMORANDUM DECISION

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

STARING, Vice Chief Judge:

¶1 Appellant Patrice Brown challenges the trial court’s November 2020 order dismissing his petition for a writ of habeas corpus. For the following reasons, we affirm.

¶2 Brown, an inmate with the Arizona Department of Corrections, filed a petition for a writ of habeas corpus in October 2020. He asserted the indictment against him had declared he was “charged with being ‘in violation of A.R.S. § 13-604.01’” but that “statute was recognized as unconstitutional by the judicial branch . . . and repealed in 2008.” Brown thus argued that “[r]eference to an unconstitutional statute render[ed] the indictment void.” He further reasoned that “the court which tried him was without jurisdiction” because the indictment was “the jurisdictional instrument upon which the accused stands trial.”

¶3 In November 2020, the trial court dismissed Brown’s petition. It explained that the petition “represents a challenge to the legality of [Brown’s] indictment, conviction, and sentence in a criminal case” and that “[a]ny challenge to a conviction and sentence imposed by the Superior Court of Arizona may be brought in a post-conviction relief proceeding.” However, “[t]aking the Petition on its face,” the court determined that “no relief can be granted under this action.” This appeal followed.

¶4 On appeal, Brown reasserts his claim. He contends that, because his indictment referred to § 13-604.01, which “was recognized as unconstitutional by the judicial branch,” the trial court lacked subject-matter jurisdiction and he “is entitled to be discharged.” He also points out that, in its order, the court “did not dispute the fact that . . . § 13-604.01 is unconstitutional” or that it had lacked subject-matter

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jurisdiction.¹ We review the denial of a writ of habeas corpus for an abuse of discretion. *See State v. Cowles*, 207 Ariz. 8, ¶ 3 (App. 2004).

¶5 Generally, “[i]n Arizona, the writ of habeas corpus may be used only to review matters affecting a court’s jurisdiction.” *In re Oppenheimer*, 95 Ariz. 292, 297 (1964). Brown’s jurisdictional claim is based on a purportedly defective indictment. But even assuming Brown were correct that his indictment was flawed, a deficient charging instrument does not deprive a court of subject-matter jurisdiction. *See State v. Maldonado*, 223 Ariz. 309, ¶ 13 (2010). The trial court therefore did not err in concluding Brown was not entitled to relief. *See State v. Perez*, 141 Ariz. 459, 464 (1984) (appellate court obliged to affirm trial court’s ruling if result legally correct for any reason).

¶6 We therefore affirm the trial court’s order dismissing Brown’s petition for a writ of habeas corpus.

¹Citing Rule 32.3, Ariz. R. Crim. P., Brown also maintains the trial court should have transferred his petition “to the court where [he] was convicted and sentenced.” To the extent his petition challenged the validity of his conviction or sentence from a different court, such that it should have been treated as a petition for post-conviction relief, we agree. *See* A.R.S. § 13-4233; Ariz. R. Crim. P. 32.3(b). However, in its order, the court explained that it was “[t]aking the Petition on its face,” presumably treating it as a petition for writ of habeas corpus, rather than one of post-conviction relief.