

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Respondent,

v.

ROBERT CARRASCO GAMEZ,
Petitioner.

No. 2 CA-CR 2022-0010-PR
Filed June 30, 2022

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NOT FOR PUBLICATION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. CR20020991
The Honorable Janet C. Bostwick, Judge

REVIEW GRANTED; RELIEF DENIED

Roberto C. Gamez, Florence
In Propria Persona

STATE v. GAMEZ
Decision of the Court

MEMORANDUM DECISION

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

ECKERSTROM, Presiding Judge:

¶1 Petitioner Robert Gamez seeks review of the trial court’s order dismissing his notice of 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). Gamez has not sustained his burden of establishing such abuse here.

¶2 After a jury trial, Gamez was convicted of two counts each of attempted first-degree murder, aggravated assault, and endangerment. The trial court sentenced him to concurrent and consecutive prison terms totaling forty-six years. We affirmed his convictions and sentences on appeal. *State v. Gamez*, No. 2 CA-CR 2003-0201 (Ariz. App. Feb. 28, 2006) (mem. decision). Gamez has sought and been denied post-conviction relief multiple times. *See State v. Gamez*, No. 2 CA-CR 2013-0073-PR (Ariz. App. Sept. 16, 2013) (mem. decision) (providing history); *see also State v. Gamez*, No. 2 CA-CR 2011-0308-PR (Ariz. App. Jan. 27, 2012) (mem. decision).

¶3 In June 2021, Gamez filed another notice of post-conviction relief, contending, as he has in past proceedings, that he received ineffective assistance of counsel. He alleged counsel was ineffective in regard to multiple claims of constitutional and trial error and asserted those claims “independently” as well. He further maintained that his claims were not subject to preclusion because they were of sufficient constitutional magnitude to require a personal waiver. The trial court summarily dismissed the proceeding.

¶4 On review, Gamez again argues his claims are not precluded because they require a personal waiver.¹ The record before us supports the

¹To the extent Gamez raises new claims in his petition for review, including a claim that *State v. Arevalo*, 249 Ariz. 370 (2020), constitutes a significant change in the law entitling him to relief, we do not address them. This court will not consider for the first time on review issues that have

STATE v. GAMEZ
Decision of the Court

trial court's conclusion that Gamez's "claims have been repeatedly considered" and "addressed on the merits where timely or cognizable." Thus, we cannot say the court abused its discretion in denying Gamez's notice of post-conviction relief. The court identified the claims Gamez had raised and resolved them correctly in a thorough, well-reasoned order, 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.

neither been presented to, nor ruled on by, the trial court. *State v. Ramirez*, 126 Ariz. 464, 468 (App. 1980); *see also* Ariz. R. Crim. P. 32.16(c)(2)(B) (petition for review shall contain "issues the trial court decided that the defendant is presenting for appellate review").