

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Respondent,

v.

GREGORY ALLEN STANHOPE,
Petitioner.

No. 2 CA-CR 2022-0055-PR
Filed June 3, 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NOT FOR PUBLICATION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. CR08635001
The Honorable James E. Marner, Judge

REVIEW GRANTED; RELIEF DENIED

Gregory Allen Stanhope, Yuma
In Propria Persona

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MEMORANDUM DECISION

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

S T A R I N G, Vice Chief Judge:

¶1 Gregory Stanhope seeks review of the trial court’s ruling summarily dismissing his successive petition for post-conviction relief filed pursuant to Rule 32, Ariz. R. Crim. P. We will not disturb that ruling unless the court abused its discretion. *See State v. Martinez*, 226 Ariz. 464, ¶ 6 (App. 2011). Stanhope has not met his burden of establishing such abuse here.

¶2 After a jury trial, Stanhope was convicted of first-degree burglary and two counts each of armed robbery, kidnapping, and aggravated assault. The trial court sentenced him to a combination of concurrent and consecutive prison terms totaling fifty-seven years. This court affirmed his convictions and sentences on appeal. *State v. Stanhope*, 139 Ariz. 88 (App. 1984). Stanhope has sought and been denied post-conviction relief on at least seven occasions. *State v. Stanhope*, No. 2 CA-CR 2013-0062-PR (Ariz. App. July 2, 2013) (mem. decision) (seventh proceeding); *State v. Stanhope*, No. 2 CA-CR 2006-0178-PR (Ariz. App. Jan. 31, 2007) (mem. decision) (sixth proceeding).

¶3 In January 2022, Stanhope filed another notice of post-conviction relief, asserting a claim under Rule 32.1(d). Shortly thereafter, before the trial court had addressed his notice, Stanhope filed a petition for post-conviction relief. He argued that, during a recent parole hearing, the Arizona Board of Executive Clemency had “abused [its] discretion and violated [his] constitutionally protected right to due process . . . and a fair [and] meaningful hearing.” Specifically, he disputed several of the Board’s findings, arguing that it had “failed to specify any individualized reasons” for denying his release.

¶4 The trial court summarily dismissed the petition. The court noted that Stanhope’s release date, based on when he was sentenced and the fifty-seven-year prison term, was not until 2039, and that Stanhope had “presented nothing to suggest that he will continue to be held . . . in custody after that time.” Consequently, the court determined that “relief is not available to [Stanhope] under Rule 32.1(d) and his request is premature.”

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Stanhope filed a motion for rehearing, which the court also denied. This petition for review followed.

¶5 On review, Stanhope seems to repeat his claim that the Board erred in denying his release from prison because it failed to make necessary findings. But Stanhope does not meaningfully explain how the trial court erred in dismissing his petition, asserting only that the court “does not understand the terms of or the nature of [his] sentence,” which “expires completely in 2023.”

¶6 Rule 32.1(d) provides for post-conviction relief if “the defendant continues to be or will continue to be in custody after his or her sentence expired.” This provision includes “claims such as miscalculation of sentence or computation of sentence credits that result in the defendant remaining in custody when he or she should be free.” Ariz. R. Crim. P. 32.1(d) cmt.

¶7 Even assuming Stanhope is correct that his sentence expires in 2023,¹ he is not currently being held in custody beyond that date and he has presented no evidence that he will be. Indeed, the sentence calculation worksheet Stanhope submitted in support of his petition shows a mandatory release date in November 2022. Contrary to Stanhope’s contention, “parole is a matter of grace and not a matter of right.” *Foggy v. Ariz. Bd. of Pardons & Paroles*, 108 Ariz. 470, 472 (1972). Rule 32.1(d) therefore does not apply here. *See State v. Manning*, 143 Ariz. 139, 141 (App. 1984) (petitioner must comply strictly with Rule 32 by asserting substantive grounds that bring him within provisions of rule; we have no jurisdiction to rule on merits of petition where no cognizable ground for relief is asserted).

¶8 Stanhope additionally argues that the Arizona Department of Corrections “miscalculated the computation” of his fifteen-year prison sentence and his release credits. But Stanhope did not raise these arguments below. We therefore do not address them. *See Ariz. R. Crim. P. 32.16(c)(2)(B)* (petition for review shall include “issues the trial court decided that the defendant is presenting for appellate review”); *State v. Ramirez*, 126 Ariz. 464, 468 (App. 1980) (appellate court need not address claims not raised below).

¹It appears that Stanhope’s current fifteen-year sentence, which began in December 2011, expires in December 2026.

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¶9 Accordingly, we grant review but deny relief.