

IN THE  
**ARIZONA COURT OF APPEALS**  
DIVISION TWO

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THE STATE OF ARIZONA,  
*Respondent,*

*v.*

MICHAEL JOSEPH SCARPIGNATO,  
*Petitioner.*

No. 2 CA-CR 2022-0060-PR  
Filed June 30, 2022

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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NOT FOR PUBLICATION  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).*

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Petition for Review from the Superior Court in Pima County  
No. CR20021612001  
The Honorable James E. Marner, Judge

**REVIEW DENIED**

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Michael J. Scarpignato, Buckeye  
*In Propria Persona*

STATE v. SCARPIGNATO  
Decision of the Court

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**MEMORANDUM DECISION**

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

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ESPINOSA, Judge:

¶1 Petitioner Michael Scarpignato 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 reverse a trial court's ruling in a proceeding "for post-conviction relief absent a clear abuse of discretion." *State v. Swoopes*, 216 Ariz. 390, ¶ 4 (App. 2007). Because Scarpignato fails to comply with Rule 32.16, we deny review.

¶2 After a jury trial, Scarpignato was convicted of possession of a dangerous weapon by a prohibited possessor, fleeing from a law enforcement vehicle, and resisting arrest. The jury failed to reach a verdict on the first-degree murder charge against him, and the trial court declared a mistrial. After a second trial, he was convicted of that offense as well. The court imposed concurrent, aggravated prison sentences of seven and 4.5 years on the flight and resisting arrest convictions to be followed by a twelve-year sentence for the weapon possession conviction. It also imposed a sentence of life without the possibility of release for twenty-five years on the murder conviction, to be served concurrently with the 4.5-year sentence and consecutively to the other sentences. On appeal, this court affirmed his convictions, but concluded the convictions for murder and prohibited possession had arisen from a single act, and therefore ordered those sentences to be served concurrently. *State v. Scarpignato*, No. 2 CA-CR 2003-0213 (Ariz. App. Sept. 29, 2005) (mem. decision). Scarpignato sought and was denied post-conviction relief, and this court denied relief on review in 2007. *State v. Scarpignato*, No. 2 CA-CR 2007-0068-PR (Ariz. App. June 28, 2007) (mem. decision). He apparently sought and was denied post-conviction relief on several other occasions as well.

¶3 In July 2021, Scarpignato filed another notice requesting post-conviction relief, stating "newly discovered evidence" entitled him to relief and explaining that "new case law," a case he referred to without citation as "Viramontes," entitled him to relief because his attorney "misinformed" him he "would be eligible for parole." The trial court determined Scarpignato had raised claims of a significant change in the law

STATE v. SCARPIGNATO  
Decision of the Court

and ineffective assistance of counsel, but concluded such claims were not “colorable or timely.” Scarpignato filed a motion for rehearing, in which he further explained his reliance on “Viramontes.” The court denied the motion, determining Scarpignato was relying on a ruling by the Federal District Court for the District of Arizona and concluding that decision had “no application” to Scarpignato’s life sentence.

¶4 On review, Scarpignato asserts his “life sentence is ambiguous [and] raises various liberty interests,” and argues the trial court should not have dismissed his petition without appointing counsel “to fully explore all issues raised.” He therefore urges this court to allow him “to proceed . . . in the Rule 32 process.” But, as a pro se litigant, Scarpignato is held to the same standards as an attorney. *See State v. Cornell*, 179 Ariz. 314, 331 (1994). His failure to comply in any meaningful way with Rule 32.16 justifies our summary refusal to grant review. *See Ariz. R. Crim. P. 32.16(c)(2)* (petition for review must contain “reasons why the appellate court should grant the petition, including citations to supporting legal authority, if known” and “specific references to the record”); *see also State v. Bolton*, 182 Ariz. 290, 298 (1995) (insufficient argument waives claim on appeal); *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).

¶5 The petition for review is denied.