

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Respondent,

v.

RONALD LEE MANNING,
Petitioner.

No. 2 CA-CR 2022-0137-PR
Filed October 26, 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NOT FOR PUBLICATION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 Mohave County
No. CR20000598
The Honorable Doug Camacho, Judge Pro Tempore

REVIEW GRANTED; RELIEF DENIED

COUNSEL

Matthew J. Smith, Mohave County Attorney
By Amanda K. Claerhout, Deputy County Attorney, Kingman
Counsel for Respondent

Ronald Lee Manning, Florence
In Propria Persona

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MEMORANDUM DECISION

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

E P P I C H, Presiding Judge:

¶1 Ronald Manning seeks review of the trial court’s rulings denying him post-conviction relief pursuant to Rule 32, Ariz. R. Crim. P. We will not disturb those rulings unless the court abused its discretion. *See State v. Stewart*, 240 Ariz. 186, ¶ 6 (App. 2016). Manning has not met his burden of establishing such abuse here.

¶2 After a jury trial, Manning was convicted of conspiracy to commit first-degree murder, conspiracy to commit first-degree escape, and weapons misconduct. The trial court sentenced him to concurrent prison terms, the longest of which was life without the possibility of parole for twenty-five years. On appeal, this court vacated his conviction and sentence for conspiracy to commit escape but otherwise affirmed. *State v. Manning*, No. 1 CA-CR 01-0361 (Ariz. App. Oct. 10, 2002) (mem. decision). Thereafter, Manning sought and was denied post-conviction relief, and this court denied review. *State v. Manning*, No. 1 CA-CR 06-0849 PRPC (Ariz. App. Oct. 22, 2007) (order).

¶3 In December 2021, Manning filed a successive notice of post-conviction relief, raising a claim of ineffective assistance of appellate counsel. Later that month, the trial court dismissed the notice, explaining that Manning’s claim of ineffective assistance was waived and precluded and that he had failed to adequately explain why he did not raise the claim previously or timely.

¶4 In January 2022, Manning filed a motion “requesting leave of court to amend” his first petition for post-conviction relief. Manning sought to raise claims that the trial court lacked subject-matter jurisdiction and his constitutional rights had been violated because there was no preliminary hearing after he was charged. In March 2022, the trial court issued its ruling, construing Manning’s motion as a petition for post-conviction relief. The court rejected Manning’s arguments, explaining that it had subject-matter jurisdiction over Manning’s felony offenses and that his constitutional arguments had been waived, but, even if they were

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not, he was not denied his right to a preliminary hearing because he was indicted by a grand jury. *See State v. Meeker*, 143 Ariz. 256, 265 (1984). Later that month, Manning filed a “Request for Reconsideration.” Shortly thereafter, the trial court denied the request because Manning’s arguments, as repeated from his January 2022 motion, were “not supported by the law.” This petition for review followed.

¶5 On review, Manning first challenges the December 2021 dismissal of his notice of post-conviction relief. But his petition for review is untimely as to this order because it was filed more than thirty days after the dismissal. *See* Ariz. R. Crim. P. 32.16(a)(1). Even if we were to disregard the untimeliness, however, Manning is not entitled to relief. *See State v. Padilla*, 176 Ariz. 81, 83 (App. 1993) (“Failure to file a timely motion for rehearing or petition for review is not jurisdictional.”). The trial court correctly determined that Manning’s claim of ineffective assistance of appellate counsel was precluded in this successive proceeding.¹ *See* Ariz. R. Crim. P. 32.2 (a)(3); *State v. Spreitz*, 202 Ariz. 1, ¶ 4 (2002) (“Our basic rule is that where ineffective assistance of counsel claims are raised, or could have been raised, in a Rule 32 post-conviction relief proceeding, subsequent claims of ineffective assistance will be deemed waived and precluded.” (emphasis omitted)).

¶6 Manning also challenges the March 2022 dismissal of his motion “requesting leave of court to amend,” which the trial court treated as a petition for post-conviction relief. Construing Manning’s “Request for Reconsideration” as a motion for rehearing, pursuant to Rule 32.14, his petition for review of the March 2022 dismissal appears to be timely. *See* Ariz. R. Crim. P. 32.16(a)(1); *see also Padilla*, 176 Ariz. at 83.

¶7 As to that order, Manning suggests the trial court erred in not permitting him to amend his petition for post-conviction relief. He points to Rule 32.9(d), which allows amendments to a petition “for good cause.”

¹In his petition for review, Manning seems to suggest that he also sought to raise claims of prosecutorial misconduct, violation of the attorney-client privilege, conflict of interest, and sentencing error. However, in his notice, Manning pointed to those claims as ones appellate counsel had been deficient in failing to raise. To the extent he attempts to raise new issues for the first time on review, we do not address them. *See 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”).

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In addition, he cites *Scott v. Schriro*, 567 F.3d 573 (9th Cir. 2009), for his assertion that the court “has the authority to allow the filing [of] an amended petition upon [a] showing of good cause even if the court[] dismissed the original petition.” But even assuming the court could have granted the amendment in this case, Manning cannot establish that the court abused its discretion because the court treated Manning’s motion as a petition for post-conviction relief and addressed his arguments on their merits.

¶8 Manning also repeats his claims of lack of subject-matter jurisdiction and constitutional violations based on the failure to hold a preliminary hearing. But the trial court clearly identified and correctly resolved these claims in a thorough, well-reasoned ruling, which we adopt.² 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”).

¶9 Accordingly, we grant review but deny relief.

²The original trial proceedings, including the indictment, are not part of our record. However, the state and the trial court agreed that the grand jury issued an indictment in this case on June 22, 2000. Manning has not disputed that assertion.