IN THE

ARIZONA COURT OF APPEALS

DIVISION TWO

THE STATE OF ARIZONA,
Respondent,

v.

AARON REGINALD CHAMBERS,
Petitioner.

No. 2 CA-CR 2022-0157-PR
Filed March 17, 2023

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NOT FOR PUBLICATION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. CR060975
The Honorable Kenneth Lee, Judge

REVIEW GRANTED; RELIEF DENIED

COUNSEL

Knight Law Firm PC, Tucson
By Amy P. Knight

and

Megan Page, Pima County Public Defender
By David J. Euchner, Assistant Public Defender, Tucson
Counsel for Petitioner

MEMORANDUM DECISION

Judge Sklar authored the decision of the Court, in which Judge O'Neil and Judge Kelly concurred.

S K L A R, Judge:

¶1 Petitioner Aaron Chambers seeks review of the trial court's orders dismissing his petitions for post-conviction relief, filed pursuant to Rule 33, Ariz. R. Crim. P.[1] "We will not disturb a trial court's ruling on a petition for post-conviction relief absent a clear abuse of discretion." *State v. Ainsworth*, 250 Ariz. 457, ¶ 1 (App. 2021) (quoting *State v. Swoopes*, 216 Ariz. 390, ¶ 4 (App. 2007)). Chambers has not sustained his burden of establishing such abuse here.

¶2 Chambers, who was sixteen at the time of his offenses, pled guilty to first-degree murder and ten other felonies. The trial court imposed a combination of concurrent and consecutive prison sentences, including a natural life sentence on the murder conviction. Chambers sought and was denied post-conviction relief twice, and this court denied relief on review in both proceedings.

¶3 In 2013, Chambers filed another notice of post-conviction relief, arguing in his petition that the United States Supreme Court's decision in *Miller v. Alabama*, 567 U.S. 460 (2012), was a significant change in the law entitling him to relief. *See* Ariz. R. Crim. P. 33.1(g). He also maintained that the Supreme Court's decision in *Roper v. Simmons*, 543 U.S. 551 (2005), in which the Court determined the death penalty could not be applied to juveniles, *id.* at 575, invalidated his plea agreement because he had been coerced to plead guilty by the threat of an unconstitutional punishment. And he asserted that the science relating to brain development cited in *Miller*, *Roper*, and *Graham v. Florida*, 560 U.S. 48 (2010),

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[1]Effective January 1, 2020, our supreme court amended the post-conviction relief rules. Ariz. Sup. Ct. Order R-19-0012 (Aug. 29, 2019). The amendments apply to all cases pending on the effective date unless a court determines that "applying the rule or amendment would be infeasible or work an injustice." *Id.* Because it is neither infeasible nor works an injustice here, we cite to and apply the current version of the rules.

was newly discovered evidence that would have changed his sentence. The trial court summarily denied relief, and this court denied relief on review. *State v. Chambers*, No. 2 CA-CR 2014-0392-PR (Ariz. App. Mar. 4, 2015) (mem. decision).

¶4 In 2016, Chambers again sought post-conviction relief, arguing in his petition that he was entitled to resentencing based on a significant change in the law, *see* Ariz. R. Crim. P. 33.1(g), specifically, *Montgomery v. Louisiana*, 577 U.S. 190 (2016), this court's decision in *State v. Valencia*, 239 Ariz. 255 (App. 2016), *vacated*, 241 Ariz. 206 (2016), and our supreme court's decision in *State v. Valencia*, 241 Ariz. 206 (2016). After a hearing, the trial court granted relief in part, finding that Chambers's "offenses were more the product of his transient youth as compared to being irreparably corrupt." In November 2020, the court set aside the sentence on the first-degree murder count and affirmed the other sentences.

¶5 At resentencing on the murder charge, the trial court imposed a life sentence "with possibility of parole after twenty-five . . . years" and again affirmed Chambers's other sentences. Chambers thereafter sought post-conviction relief, arguing his combined sentences were "categorically unconstitutional" and "disproportionate." The court summarily denied relief in September 2022.

¶6 On review, Chambers challenges the trial court's November 2020 and September 2022 rulings.[2] He argues the court abused its discretion in determining he was entitled to resentencing only on the murder conviction, by imposing a cumulative sentence that he maintains violates the Eighth Amendment, and in rejecting his claim that his guilty plea was involuntary. We review de novo the court's legal conclusions, *see State v. Miles*, 243 Ariz. 511, ¶ 7 (2018), but our review of the court's factual

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[2] At resentencing in December 2020, the trial court stayed the deadline for filing a petition for review "pending receipt of the transcripts." The parties then stipulated to a stay as they attempted to reach a non-hearing disposition. The court dissolved the stay in December 2021 and ordered Chambers to file a petition for post-conviction relief. It subsequently granted Chambers's motion for clarification, to which the state did not object, and ordered the stay reinstated as to Chambers's petition for review from the November 2020 ruling. After its September 2022 ruling, the court lifted the stay, and Chambers's petition for review challenges both rulings.

findings "is limited to a determination of whether those findings are clearly erroneous," *State v. Sasak*, 178 Ariz. 182, 186 (App. 1993).

¶7 Chambers first contends that the trial court's "limited grant of relief" and subsequent imposition of sentence "violated the Eighth Amendment" and that it "should have conducted a complete resentencing on all counts." He acknowledges the court's reliance on this court's decision in *State v. Healer*, 246 Ariz. 441 (App. 2019), but argues our decision in that case "was erroneous." "Respect for precedent demands 'that we not lightly overrule precedent and we do so only for compelling reasons.'" *State v. Hickman*, 205 Ariz. 192, ¶ 37 (2003) (quoting *Lowing v. Allstate Ins.*, 176 Ariz. 101, 107 (1993)). Departure from this rule requires "special justification," at minimum, something "more than that a prior case was wrongly decided." *Id.* Chambers has provided no such justification here.

¶8 Chambers next argues his cumulative sentence, "providing no possibility of release on parole before serving 46 years, violates the Eighth Amendment." As Chambers acknowledges, our supreme court rejected this argument in *State v. Soto-Fong*, 250 Ariz. 1, ¶ 31 (2020). We are bound by that decision. *See Healer*, 246 Ariz. 441, ¶ 12.

¶9 In a related argument, however, Chambers contends his aggregate sentence is "unconstitutionally disproportionate" in his "individual case." *See State v. Davis*, 206 Ariz. 377, ¶ 34 (2003) ("if the sentence imposed is so severe that it appears grossly disproportionate to the offense, the court must carefully examine the facts of the case and the circumstances of the offender to see whether the sentence is cruel and unusual"). We cannot say the trial court abused its discretion in determining the sentence was not disproportionate.

¶10 As detailed by the trial court in its ruling on Chambers's petition for post-conviction relief in 2002, Chambers stole a vehicle at gunpoint from one victim. After police officers located him, Chambers abandoned the vehicle and fled on foot. Later that night, Chambers went to the second victim's home, purporting to ask for help with a broken dirt bike. The victim agreed to help and, when he stepped outside, Chambers shot him in the back of the head. As he lay bleeding, he gave Chambers the keys to his vehicle. Chambers attempted to drive the vehicle but became stuck. He returned to the victim's home and stole items from inside. He then returned to the victim, who was still alive on the ground, and shot him a second time, killing him. Despite Chambers's youth at the time of the offense, we cannot say his lengthy sentence is "grossly disproportionate,"

as required under *Davis*, in view of the cruel nature of the killing of the second victim. 206 Ariz. 377, ¶ 34.

¶11 Finally, Chambers maintains that his guilty plea was involuntary "[b]ecause it was made by a child for no benefit other than avoiding a death sentence that would be substantively unconstitutional." The trial court rejected this claim as precluded. *See* Ariz. R. Crim. P. 33.2(a). Chambers argues, however, that his claim is not subject to preclusion because it is distinct from a claim relating to the voluntariness of his plea raised in his 2013 petition and because he could not "have presented it prior to the Supreme Court's 2016 decision in *Montgomery*."

¶12 As described above, this court rejected Chambers's claim that his guilty plea was invalid "because he had been coerced to plead guilty by the threat of an unconstitutional punishment." *Chambers*, No. 2 CA-CR 2014-0392-PR, ¶ 3. Chambers argues his current claim is distinct because it arises from the Supreme Court's reasoning in *Miller* and *Montgomery* that, due to "the distinctive attributes of youth," *Miller*, 567 U.S. at 472, "a sentencing rule permissible for adults may not be so for children," *id.* at 481. But, as Chambers expressly describes the Supreme Court's ruling in *Montgomery*, that case simply "confirmed" this principle in *Miller*. Indeed, *Montgomery*, 577 U.S. 190, and *Valencia*, 241 Ariz. 206, simply addressed whether the holding in *Miller*—that the Eighth Amendment prohibits mandatory life-without-parole sentences for juveniles—was procedural or substantive and whether it was retroactive. *Montgomery* clarified that *Miller* was not "merely a procedural rule requiring individualized sentencing," *Valencia*, 241 Ariz. 206, ¶ 14, but was a substantive rule "that life without parole is an excessive sentence for children whose crimes reflect transient immaturity," *id.* (quoting *Montgomery*, 577 U.S. at 210).

¶13 Other than these two cases, Chambers's current argument that the trial court should have considered his youth in determining the voluntariness question relies entirely on caselaw decided before his previous petition for post-conviction relief was filed in 2013. Thus, he could have raised such a claim in his previous proceeding. *See* Ariz. R. Crim. P. 33.2(a)(3). Further, although *Montgomery* clarified that the *Miller* rule was a substantive one, an arguable extension of previous law, Chambers's argument in his 2013 proceeding was that he had been "coerced to accept the plea by something that was illegal, cruel, unusual and unconstitutional" and that he should be allowed to withdraw because the "plea agreement was based upon an unconstitutional incentive by the State." Albeit less developed than his current claim, this is essentially the same claim now presented—that children are ineligible for the death penalty "not for some

procedural reason" but because they are categorically barred from being sentenced to death. *See* Ariz. R. Crim. P. 33.2(a)(2). In sum, whether Chambers's claim is precluded based on waiver or on its having been previously adjudicated, we cannot say the trial court abused its discretion in rejecting it. *See* Ariz. R. Crim. P. 33.2(a).

¶14 We grant the petition for review but deny relief.