

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Respondent,

v.

BRANDON KYLE MAYOL,
Petitioner.

No. 2 CA-CR 2023-0012-PR
Filed February 10, 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NOT FOR PUBLICATION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 Mohave County
No. S8015CR201700869
The Honorable Derek Carlisle, Judge

REVIEW GRANTED; RELIEF DENIED

COUNSEL

Matthew J. Smith, Mohave County Attorney
By Jacob Cote, Deputy County Attorney, Kingman
Counsel for Respondent

Brandon Mayol, Florence
In Propria Persona

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MEMORANDUM DECISION

Vice Chief Judge Staring authored the decision of the Court, in which Judge Sklar and Judge O’Neil concurred.

STARING, Vice Chief Judge:

¶1 Brandon Mayol seeks review of the trial court’s ruling summarily dismissing his petition for post-conviction relief filed pursuant to Rule 32, Ariz. R. Crim. P., and the court’s order denying his motion for rehearing. We will not disturb those orders unless the court abused its discretion. *See State v. Roseberry*, 237 Ariz. 507, ¶ 7 (2015). Mayol has shown no such abuse here.

¶2 In 2018, Mayol pled guilty to attempted sexual exploitation of a minor, and the trial court suspended the imposition of sentence and placed him on lifetime probation. The state subsequently filed a petition to revoke Mayol’s probation, alleging he had violated three conditions of his probation. At the contested violation hearing in September 2020, evidence was presented that Mayol had admitted that he had used his Xbox and cellular telephone to view and download pornographic images depicting children in violation of the conditions of his probation. At the conclusion of the hearing, the court found the state had proved all of the alleged violations. The court revoked Mayol’s probation and sentenced him to 6.5 years’ imprisonment. We affirmed Mayol’s probation revocation and the resulting sentence on appeal. *State v. Mayol*, No. 1 CA-CR 20-0484 (Ariz. App. Aug. 12, 2021) (mem. decision).

¶3 In October 2021, Mayol sought post-conviction relief, and after appointed counsel filed a notice of no colorable claim, Mayol filed a pro se Rule 32 petition. He raised multiple claims asserting violations of his constitutional rights related to the revocation of his probation. Mayol listed thirteen issues in his petition. In summary, he maintained that the attorney who represented him at the violation hearing was ineffective for multiple reasons, including failing to request a voluntariness hearing on his alleged confession; the trial court improperly admitted evidence, including his confession and the tip report;¹ and, his rights were violated by the

¹The tip report, which led to the filing of the petition to revoke, was provided by Internet Crimes Against Children, an agency that receives tips

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surveillance conducted in this matter. The court summarily dismissed Mayol's petition and his motion for reconsideration, and this petition for review followed.

¶4 On review, Mayol essentially restates many of the claims he presented in his Rule 32 petition and contends that he was entitled to an evidentiary hearing. He requests that we vacate his sentence and order his immediate release. The trial court clearly identified and correctly resolved Mayol's claims in thorough, well-reasoned rulings, 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"). We further note that, as the court correctly stated in its rulings, on appeal this court addressed and rejected many of the very issues Mayol raised in his Rule 32 petition, a fact he does not meaningfully address on review.² *Mayol*, No. 1 CA-CR 20-0484, ¶¶ 7-11 & n.1.

¶5 In addition, to the extent Mayol cites *Brady v. Maryland*, 373 U.S. 83 (1963), and obliquely refers to a double jeopardy violation, apparently for the first time on review, we do not address those claims. *See State v. Ramirez*, 126 Ariz. 464, 468 (App. 1980) (court of appeals does not address issues raised for first time in petition for review). Finally, we decline Mayol's request to treat the state's failure to file a detailed response to his petition for review as a confession of error. *See State v. Healer*, 246 Ariz. 441, n.5 (App. 2019) (appellate court has discretion to decline to treat state's decision not to file a response as a confession of error for purely legal issues).

regarding child pornography from the National Center for Missing and Exploited Children. That report identified an internet protocol address used to upload apparent child pornography from a residence in Kingman, which Mayol shared with his father.

²On appeal we determined, in relevant part, that Mayol had waived the issues related to the voluntariness of his confession, the authenticity of the tip report, and his Sixth Amendment Confrontation Clause rights. *Mayol*, No. 1 CA-CR 20-0484, ¶ 7 & n.1. We also concluded there was no evidence that Mayol's confession was coerced; we rejected his claim that the trial court erred by failing to sua sponte preclude his confession; and, we determined that any possible error in admitting the tip report was harmless. *Id.* ¶¶ 8-11.

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¶6

Accordingly, we grant review but deny relief.