

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Respondent,

v.

CLAUDE RANGER III,
Petitioner.

No. 2 CA-CR 2024-0216-PR
Filed November 21, 2024

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NOT FOR PUBLICATION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 Maricopa County
No. CR2012005729001
The Honorable Michael W. Kemp, Judge

REVIEW GRANTED; RELIEF DENIED

Claude Ranger III, Tucson
In Propria Persona

MEMORANDUM DECISION

Presiding Judge O’Neil authored the decision of the Court, in which Judge Vásquez and Judge Kelly concurred.

O’ N E I L, Presiding Judge:

¶1 Petitioner Claude Ranger seeks review of the trial court’s order summarily dismissing his motion seeking post-conviction DNA testing pursuant to Rule 32.17, Ariz. R. Crim. P. We will not disturb that order unless the court abused its discretion. *See State v. Gutierrez*, 229 Ariz. 573, ¶ 19 (2012). Ranger has not met his burden of establishing such abuse here.

¶2 In 1991, Ranger and an unidentified man forced themselves into the victim’s vehicle, directed her to drive to an abandoned house, and subjected her to several acts of sexual assault including oral and vaginal sex. While each man sexually assaulted the victim, the other stood by and observed. Ranger’s DNA profile matched with a sperm fraction found on the shorts the victim wore the day of the assaults, though his DNA was not found any other place. In 2014, after a jury trial, Ranger was convicted of six counts of sexual assault and sentenced to a combination of consecutive and concurrent prison terms totaling thirty years. We affirmed his convictions and sentences on appeal. *State v. Ranger*, No. 1 CA-CR 14-0613 (Ariz. App. Feb. 2, 2016) (mem. decision).

¶3 Ranger sought and has been denied post-conviction relief on numerous occasions. In January 2024, Ranger filed a motion for forensic DNA testing, requesting “another swab test” to challenge whether his semen was found in the victim’s vagina and anus. In that motion, he also asserted the jury was biased against him because of his race, the prosecutor committed misconduct, and the trial court was biased. The court summarily denied the motion, and this petition for review followed.

¶4 On review, Ranger maintains additional DNA testing would prove his innocence. A defendant is entitled to post-conviction DNA testing of appropriate material evidence in the state’s control under Rule 32.17 if the court finds the evidence exists, “the evidence was not previously subjected to DNA testing, or the evidence was not subjected to the type of

STATE v. RANGER
Decision of the Court

DNA testing that defendant now requests and the requested testing may resolve an issue not resolved by previous testing,” and “a reasonable probability exists that the defendant would not have been prosecuted, or the defendant’s verdict or sentence would have been more favorable, if DNA testing would produce exculpatory evidence.”

¶5 As noted above, DNA testing was already performed in this case, with only a sperm fraction from the victim’s shorts matching Ranger’s profile. *See* Ariz. R. Crim. P. 32.17(d)(1)(C). But assuming the previously tested evidence still exists, *see* Ariz. R. Crim. P. 32.17(d)(1)(B), Ranger has not requested a different type of DNA testing that could resolve an issue not resolved by previous testing. *See* Ariz. R. Crim. P. 32.17(d)(1)(C). Regardless of that shortcoming, Ranger cannot show a reasonable probability that he would not have been prosecuted or his verdict or sentence would have been more favorable from exculpatory DNA evidence. *See* Ariz. R. Crim. P. 32.17(d)(1)(A).

¶6 That is because the jury was already presented with testimony that Ranger’s DNA was not found on any other tested location except for the shorts, including in the victim’s vagina. Ranger’s arguments appear to be premised on his belief that because his DNA was not located on the victim’s body, the evidence against him at trial was “insufficient” for his six sexual assault convictions. Ignoring that a victim’s testimony alone may be sufficient to support such convictions, *see State v. Williams*, 111 Ariz. 175, 177-78 (1974), Ranger also overlooks that the jury was instructed on accomplice liability such that he could be found guilty even if the jury partially rejected the victim’s testimony and concluded that he had not personally assaulted the victim and only the other unidentified man had. Accordingly, there is no reasonable probability that the jury’s verdicts would be any different based on additional DNA testing.

¶7 Ranger also asserts various claims on review including that the jury selection was tainted by racial bias, he was not convicted by an impartial jury, his sentence constitutes cruel and unusual punishment, the trial judge was biased, the prosecutor committed misconduct, he is actually innocent, and counsel was ineffective. Any such claims that were not raised in his motion in the trial court are waived. *See* Ariz. R. Crim. P. 32.16(c)(2)(B) (appellate court reviews issues presented to trial court); *State v. Ramirez*, 126 Ariz. 464, 468 (App. 1980) (appellate court will not address arguments asserted for first time in petition for review). In any event, Ranger has waived each claim for failing to meaningfully develop his arguments on review. *See* Ariz. R. Crim. P. 32.16(c)(2)(D) (petition for

STATE v. RANGER
Decision of the Court

review must include “reasons why the appellate court should grant the petition”); *State v. Stefanovich*, 232 Ariz. 154, ¶ 16 (App. 2013).

¶8 Notwithstanding waiver in this proceeding, Ranger’s claims are also precluded because they have either been addressed on the merits in previous post-conviction proceedings or were not raised on appeal or in previous proceedings. See Ariz. R. Crim. P. 32.2(a)(2), (3), (b). And to the extent some of his claims in this successive proceeding arise under Rule 32.1(b) through (h), Ranger’s failure to explain why he did not raise them previously warrants their summary rejection. Ariz. R. Crim. P. 32.2(b). For these reasons, the trial court did not abuse its discretion in summarily denying Ranger’s motion.

¶9 We grant review but deny relief.