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MAR 27 2009

COURT OF APPEALS  
DIVISION TWO

**NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.**  
See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24.

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION TWO

THE STATE OF ARIZONA,	)	
	)	
Respondent,	)	2 CA-CR 2008-0332-PR
	)	DEPARTMENT A
v.	)	<u>MEMORANDUM DECISION</u>
	)	Not for Publication
SYLVIA ESTRELLA,	)	Rule 111, Rules of
	)	the Supreme Court
Petitioner.	)	
_____	)	

PETITION FOR REVIEW FROM THE SUPERIOR COURT  
OF SANTA CRUZ COUNTY

Cause No. OC-98239

Honorable Michael J. Cruikshank, Judge

REVIEW GRANTED; RELIEF DENIED

Barbara LaWall, Pima County Attorney  
By Jacob R. Lines

Tucson  
Attorneys for Respondent

Law Office of Emily Danies  
By Emily Danies

Tucson  
Attorneys for Petitioner

H O W A R D, Presiding Judge.

¶1 Petitioner Sylvia Estrella petitions this court to review the trial court’s denial of her petition for post-conviction relief, filed pursuant to Rule 32, Ariz. R. Crim. P. We grant review, but deny relief.

¶2 We review the trial court’s decision granting or denying post-conviction relief for an abuse of discretion. *State v. Swoopes*, 216 Ariz. 390, ¶ 4, 166 P.3d 945, 948 (App. 2007). In her petition for post-conviction relief, Estrella claimed she had newly discovered evidence that would have changed the outcome of her trial. She also claimed trial counsel had rendered ineffective assistance, alleging her attorney had pressured her into not testifying, and that her attorney had an actual conflict of interest resulting in the “creation” of incriminating evidence that she had a financial motive to kill her husband. She further claimed the alleged conflict of interest influenced her attorney’s decisions. The trial court summarily denied relief on all claims.

¶3 When a trial court’s order denying a petition for post-conviction relief “clearly identif[ies] the issues raised[,]” and “[e]ach issue raised is correctly ruled upon in a fashion that will allow any court in the future to understand the resolution[,]” then “[n]o useful purpose would be served by this court rehashing the trial court’s correct ruling in a written decision.” *State v. Whipple*, 177 Ariz. 272, 274, 866 P.2d 1358, 1360 (App. 1993). Here, in a detailed six-page ruling, the trial court clearly and correctly addressed most of the issues Estrella raised in her petition for post-conviction relief. We will not repeat that analysis here but we do clarify the resolution of the actual conflict of interest claims.

¶4 At trial, Estrella had moved for a mistrial based on events related to her counsel's alleged conflict of interest. The trial court denied the motion and on direct appeal, Estrella claimed the court had erred in that decision. *State v. Estrella*, No. 2 CA-CR 2001-0055, ¶ 6 (memorandum decision filed Jan. 14, 2003). This court concluded that the record did not support her claim that an "obvious, actual conflict of interest," existed and therefore the trial court had not abused its discretion in denying the motion for mistrial. *Id.* ¶ 20. That conclusion supports the trial court's finding here that no actual conflict existed. *See State v. Bocharski*, 218 Ariz. 476, ¶ 60, 189 P.3d 403, 416 (2008) (law of the case doctrine applies to decisions on questions involving substantially same facts and issues).

¶5 Nevertheless, on appeal, this court left open the possibility that Estrella could show that the alleged conflict had an adverse effect on the adequacy of her counsel's representation at trial and rendered his representation ineffective. *Estrella*, No. 2 CA-CR 2001-0055, ¶ 20. But, as the trial court concluded, Estrella has not shown any potential conflict had an adverse effect. In order to warrant relief, any such adverse effect must have had "a substantially negative impact." *State v. Jenkins*, 148 Ariz. 463, 467, 715 P.2d 716, 720 (1986); *see also State v. Martinez-Serna*, 166 Ariz. 423, 426, 803 P.2d 416, 419 (1990). In light of other evidence the state had presented concerning Estrella's financial interests in her husband's death, the trial court could properly conclude that any adverse effect did not have a substantially negative impact on Estrella's trial.

¶6 Estrella further argued that her counsel’s financial interest in being paid to represent Estrella at trial caused him to forego requesting a plea bargain. But the trial court could correctly find no connection between the payment and the lack of a plea bargain. That allegation could be made against any privately retained attorney. “Proof of ineffectiveness must be to a demonstrable reality rather than a matter of speculation.” *State v. Santanna*, 153 Ariz. 147, 150, 735 P.2d 757, 760 (1987).

¶7 With respect to Estrella’s other claims, as stated above, we agree with the trial court’s analysis and do not address them further. *See Whipple*, 177 Ariz. at 274, 866 P.2d at 1360. In sum, the trial court did not abuse its discretion in summarily denying Estrella’s petition for post-conviction relief. Although we grant review, we deny relief.

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JOSEPH W. HOWARD, Presiding Judge

CONCURRING:

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JOHN PELANDER, Chief Judge

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PHILIP G. ESPINOSA, Judge