

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

FILED BY CLERK

DEC 10 2010

COURT OF APPEALS  
DIVISION TWO

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION TWO

THE STATE OF ARIZONA,	)	2 CA-CR 2010-0271-PR
	)	DEPARTMENT B
Respondent,	)	
	)	<u>MEMORANDUM DECISION</u>
v.	)	Not for Publication
	)	Rule 111, Rules of
DOUGLAS L. WOOD,	)	the Supreme Court
	)	
Petitioner.	)	
_____	)	

PETITION FOR REVIEW FROM THE SUPERIOR COURT OF PINAL COUNTY

Cause No. S1100CR5906

Honorable Boyd T. Johnson, Judge

REVIEW GRANTED; RELIEF DENIED

\_\_\_\_\_  
Douglas L. Wood

\_\_\_\_\_  
Florence  
In Propria Persona

\_\_\_\_\_  
K E L L Y, Judge.

¶1 Following a jury trial in 1974, petitioner Douglas Wood was convicted of first-degree murder and kidnapping. The trial court sentenced him to life imprisonment and to a concurrent prison term of eight to ten years. In 1998, we denied relief on Wood's petition for review of the court's denial of his first petition for post-conviction relief, filed pursuant to Rule 32, Ariz. R. Crim. P., in which Wood asserted he was

eligible for parole. *State v. Wood*, No. 2 CA-CR 98-0028-PR (memorandum decision filed July 28, 1998).

¶2 In 2009, Wood filed a successive, pro se notice of post-conviction relief, asserting he was entitled to relief pursuant to Rule 32.1(d). Unable to find any colorable post-conviction claim to raise, appointed counsel filed a notice of review pursuant to Rule 32.4(c)(2). The trial court allowed Wood to file a pro se petition, ultimately accepting in lieu of that petition a memorandum he had filed with his request for preparation of the post-conviction relief record. The court then denied the petition and Wood’s motion for rehearing<sup>1</sup> without conducting an evidentiary hearing. This petition for review followed. “We will not disturb a trial court’s ruling on a petition for post-conviction relief absent a clear abuse of discretion.” *State v. Swoopes*, 216 Ariz. 390, ¶ 4, 166 P.3d 945, 948 (App. 2007). We find no such abuse here.

¶3 Wood argues the trial court abused its discretion by denying his claim “that the life sentence imposed upon him be treated, as a matter of actuarial calculation, as a sentence which expires when he hypothetically reaches the age of 80 years, thereby allowing him to ask for deduction against that hypothetical life span for ‘good time’ credit he has earned since being incarcerated.” Wood claims the court’s failure to order his release violates his “constitutionally protected liberty interest.” However, as Division One of this court previously held, “it is impossible to deduct time from an indeterminate denominate—a person’s life.” *Escalanti v. Dep’t of Corr.*, 174 Ariz. 526, 528, 851 P.2d

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<sup>1</sup>Although the trial court referred to Wood’s motion for rehearing/reconsideration in its July 7, 2010, ruling, that motion is not part of the record before us.

151, 153 (App. 1993). Accordingly, despite Wood’s claim to the contrary, the good time credits set forth under former A.R.S. §§ 31-251 and 31-252,<sup>2</sup> which “apply when the prisoner is entitled to release upon completion of sentence,” do not apply to defendants like Wood, who have been sentenced to life in prison. *Escalanti*, 174 Ariz. at 528, 851 P.2d at 153. As Division One also concluded, “when the legislature specifically provided that credits are to be deducted from the maximum sentence imposed, it abolished such credits for a maximum term of life in prison.” *Id.* Therefore, the court correctly found that Wood’s life sentence “ha[d] an indeterminant ‘end’ and therefore ‘good time’ credit cannot, in the absence of the sentence being declared determinatant, be deducted therefrom.” The court further concluded, with good reason, that it had “no legal authority” to commute Wood’s sentence.

¶4 Although we grant the petition for review, we deny relief.

*/s/ Virginia C. Kelly*  
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VIRGINIA C. KELLY, Judge

CONCURRING:

*/s/ Garye L. Vásquez*  
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GARYE L. VÁSQUEZ, Presiding Judge

*/s/ Peter J. Eckerstrom*  
\_\_\_\_\_  
PETER J. ECKERSTROM, Judge

<sup>2</sup>1970 Ariz. Sess. Laws, ch. 112, § 2; repealed by 1977 Ariz. Sess. Laws, ch. 142, §§ 181, 182.