NOTICE: NOT FOR PUBLICATION.
UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED EXCEPT AS AUTHORIZED.

IN THE
ARIZONA COURT OF APPEALS
DIVISION ONE

STATE OF ARIZONA, *Respondent*,

v.

GILBERTO AYALA, *Petitioner*.

No. 1 CA-CR 13-0120 PRPC
FILED 05-29-2014

Petition for Review from the Superior Court in Maricopa County
No. CR2005-012424-001
The Honorable Warren J. Granville, Judge

REVIEW GRANTED; RELIEF DENIED

COUNSEL

Maricopa County Attorney's Office, Phoenix
By Diane Meloche
Counsel for Respondent

Gilberto Ayala, San Luis
Petitioner

MEMORANDUM DECISION

Judge Patricia A. Orozco delivered the decision of the Court, in which Presiding Judge John C. Gemmill and Judge Peter B. Swann joined.

O R O Z C O, Judge:

¶1 Petitioner Gilberto Ayala petitions this court for review from the dismissal of his petition for post-conviction relief. For the reasons stated below, we grant review and deny relief.

¶2 A jury convicted Ayala of reckless manslaughter and the trial court sentenced him to fifteen years' imprisonment. We affirmed his conviction and sentence on direct appeal. *State v. Ayala*, 1 CA-CR 06-0525 (Ariz. App. Oct. 2, 2007). Ayala now seeks review of the summary dismissal of a pleading the trial court properly treated as his second petition for post-conviction relief pursuant to Arizona Rule of Criminal Procedure 32.3. We have jurisdiction pursuant to Arizona Rule of Criminal Procedure 32.9(c).

¶3 We deny relief. Ayala raised or could have raised all of the issues he presents for review on direct appeal and/or in his prior petition for post-conviction relief. Any claim a defendant raised or could have raised on direct appeal or in an earlier post-conviction relief proceeding is precluded. Ariz. R. Crim. P. 32.2(a). None of the exceptions under Rule 32.2(b) apply.

¶4 Thus, we grant review but deny relief.



Ruth A. Willingham · Clerk of the Court
FILED: gsh