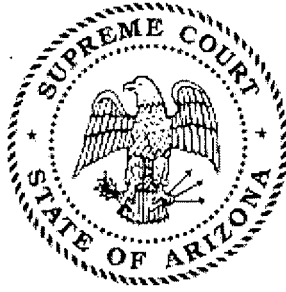


APPENDIX J



Supreme Court

STATE OF ARIZONA

ROBERT BRUTINEL
Chief Justice

ARIZONA STATE COURTS BUILDING
1501 WEST WASHINGTON STREET, SUITE 402
PHOENIX, ARIZONA 85007
TELEPHONE: (602) 452-3396

TRACIE K. LINDEMAN
Clerk of the Court

August 3, 2023

RE: STATE OF ARIZONA v JOSHUA ASTON

Arizona Supreme Court No. CR-22-0314-PR

Court of Appeals, Division One No. 1 CA-CR 22-0143 PRPC

Maricopa County Superior Court No. CR2004-006474-001

GREETINGS:

The following action was taken by the Supreme Court of the State of Arizona on August 3, 2023, in regard to the above-referenced cause:

ORDERED: Petition for Review of the Court of Appeals Decision = DENIED.

A panel composed of Vice Chief Justice Timmer, Justice Lopez, Justice Beene and Justice King participated in the determination of this matter.

Tracie K. Lindeman, Clerk

TO:

Alice Jones

Krista Wood

Joshua Aston, ADOC 217096, Arizona State Prison,

La Palma Correctional Center

Amy M Wood

sb

APPENDIX A

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR2004-006474-001 DT

10/07/2021

HONORABLE SUZANNE E. COHEN

CLERK OF THE COURT
Y. Zych
Deputy

STATE OF ARIZONA

AMANDA MONCAYO PARKER

v.

JOSHUA ASTON (001)

JOSHUA ASTON
#217096 ASPC FLORENCE-CENTRAL
UNIT
PO BOX 8200
FLORENCE AZ 85132

COURT ADMIN-CRIMINAL-PCR
JUDGE SUZANNE COHEN

PCR DISMISSED

On March 21, 2007, a jury found Defendant guilty of two class 1 felonies: one count of first-degree murder and one count of conspiracy to commit first-degree murder. Defendant was 16 years old at the time of the offenses. The Court entered judgment and sentenced Defendant on May 4, 2007 to a natural life sentence without the possibility of "parole" on Count 1, and a concurrent life sentence with the possibility of "parole" on Count 2. Thereafter, this Court dismissed Defendant's first two Rule 32 proceedings in Orders filed on May 24, 2011 and July 18, 2013, respectively. The Court also denied relief after a full round of briefing in a third proceeding seeking Rule 32.1(g) relief based upon *Miller v. Alabama*, 567 U.S. 460 (2012) in an order filed on May 14, 2014. However, that claim was reconsidered. On March 21, 2017 counsel was appointed to explore his Rule 32.1(g) relief based on his juvenile status at the time of sentencing. Defendant is pending resentencing after appeal (7/20/16 2-CA-CR 2016-0201). On 1/25/17, after the appeal but prior to the mandate, defendant, through counsel, filed a PCR. On May 19, 2017 Defendant, through counsel Mr. Stavris, filed a motion to stay that PCR pending sentencing. Pam Nicholson was appointed to represent Defendant in September 2017.

This Court denied defendant's pro per 7/20/21 PCR filing because he is represented by counsel. Defendant filed a motion for reconsideration and an amended Notice Requesting Post-Conviction Relief on 8/7/21. The court has considered the Motion for Reconsideration, Request

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR2004-006474-001 DT

10/07/2021

to File an Amended Notice Requesting Post-Conviction Relief, the Amended Notice as well as the state's response.

Defendant is raising claims under Rule 32.1(a),(e) and (g) and (h). He alleges he was denied the right to testify, there was prosecutorial misconduct, he was denied a fair and impartial jury and newly discovered evidence exists.

The Court finds defendant fails to provide a valid reason for failing to raise these claims in a timely manner. Defendant further alleges he had new information from a witness's interview from 2018. Defendant fails to explain the delay in seeking the PCR and fails to provide any information as to the nature of the newly discovered evidence.

The Court may summarily dismiss if Defendant fails to "provide sufficient reasons why the defendant did not raise the claim in a previous notice or petition, or in a timely manner". ARCRP Rule 32.2(b). See also Rule 32.4(b)(3).

IT IS ORDERED granting the motion for reconsideration.

IT IS ORDERED granting the Motion requesting permission to file an amended Notice Requesting post-conviction relief.

IT IS ORDERD dismissing Defendant's Amended Notice Requesting Post-conviction relief.

APPENDIX B

APPENDIX B

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR2004-006474-001 DT

11/05/2021

HONORABLE SUZANNE E. COHEN

CLERK OF THE COURT
Y. Zych
Deputy

STATE OF ARIZONA

VINCE IMBORDINO

v.

JOSHUA ASTON (001)

JOSHUA ASTON
#217096 ASPC FLORENCE-CENTRAL
UNIT
PO BOX 8200
FLORENCE AZ 85132
PAMELA NICHOLSON

COURT ADMIN-CRIMINAL-PCR
JUDGE SUZANNE COHEN

JESSICA ANN GATTUSO

MINUTE ENTRY

The Court has reviewed Defendant's Reply to State's Response to Defendant's pro per Motion for Reconsideration filed 10/14/2021. The reply does not alter this court's 10/7/21 dismissing Defendant's 7/20/21 PCR.

This court has reviewed defendant's second Motion for reconsideration filed 10/18/21. No good cause appearing it is ordered denying Defendant's Motion for Reconsideration.

The court has received Defendant's Motion Requesting to be added to the notification list in regard to all future filings filed 10/14/21. It is ordered the state respond to this Motion by November 22, 2021.

The court notes that Defendant fails to affirm that he provides his motions to the state or his counsel.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR2004-006474-001 DT

11/05/2021

IT IS ORDERED that defendant notice all parties on any filings.

APPENDIX C

APPENDIX

C

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR2004-006474-001 DT

08/16/2021

HONORABLE SUZANNE E. COHEN

CLERK OF THE COURT
Y. Zych
Deputy

STATE OF ARIZONA

VINCE IMBORDINO
ROBERT J SHUTTS
JULIE ANN DONE

v.

JOSHUA ASTON (001)

PAMELA NICHOLSON
CHRISTOPHER STAVRIS

COURT ADMIN-CRIMINAL-PCR
JUDGE SUZANNE COHEN

JESSICA ANN GATTUSO

RESPONSE TIME SET

The Court has received and reviewed Defendant's *pro per* Motion For Reconsideration or In the Alternative To File Request to File Motion Requesting Amended Notice Requesting Post Conviction Relief filed 08/07/2021.

IT IS ORDERED that the State shall file a Response within 45 days of the date of this minute entry.

APPENDIX D

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR2004-006474-001 DT

07/29/2021

HONORABLE SUZANNE E. COHEN

CLERK OF THE COURT
Y. Zych
Deputy

STATE OF ARIZONA

VINCE IMBORDINO
ROBERT J SHUTTS

v.

JOSHUA ASTON (001)

PAMELA NICHOLSON
CHRISTOPHER STAVRIS

COURT ADMIN-CRIMINAL-PCR
JUDGE SUZANNE COHEN

JESSICA ANN GATTUSO

PCR DISMISSED/
VIRTUAL STATUS CONFERENCE SET

The Court has received defendant's pro per Notice Requesting Post Conviction Relief filed 7/20/21. In his Notice Defendant acknowledges he is represented by counsel and asks to have this PCR consolidated with his existing PCR.

The Court has reviewed the procedural history.

Defendant is pending resentencing after appeal (7/20/16 2-CA-CR 2016-0201). On 1/25/17, after the appeal but prior to the mandate, defendant, through counsel, filed a PCR. On May 19, 2017 Defendant, through counsel Mr. Stavris, filed a motion to stay that PCR pending sentencing. Pam Nicholson was appointed to represent Defendant in September 2017.

The state requested a stay on 6/17/19 pending a decision by the United States Supreme Court in Mathena V. Malvo.

On April 2, 2020 Judge Ronda Fisk vacated further hearings and the parties were to request a rest once the Supreme Court issued a ruling.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR2004-006474-001 DT

07/29/2021

Defendant is still represented by counsel. "There is no constitutional right to hybrid representation." *State v. Dixon*, 226 Ariz. 545, 553, 250 P.3d 1174, 1182 (2011).

It is therefore ordered dismissing Defendant's Notice of PCR filed 7/20/21.

The Court notes that Mathena V. Malvo was dismissed on February 26, 2020 by The United States Supreme Court. The court is aware that *Jones v Mississippi* 141 S. Ct 229 (2020) was decided on October 5, 2020.

IT IS THEREFORE ORDERED setting a virtual status conference on **08/06/2021 at 11:00 a.m.** before this division.

APPENDIX E

IN THE
COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE



DIVISION ONE
FILED: 1/03/23
AMY M. WOOD,
CLERK
BY: JT

STATE OF ARIZONA,)
) Court of Appeals
) Division One
Respondent,) No. 1 CA-CR 22-0143 PRPC
)
v.) Maricopa County
) Superior Court
JOSHUA ASTON,) No. CR2004-006474-001
)
Petitioner.)
)
)
)

ORDER REINSTATING PETITION FOR REVIEW

The above referenced cause number was closed on December 30, 2022 and any physical record was returned to the trial court. On December 29, 2022 an untimely Petition for Review was filed with the Arizona Supreme Court. On the Court's own motion,

IT IS ORDERED reinstating this Petition for Review of Post-Conviction Relief for the purpose of transferring documents requested by the Arizona Supreme Court for review.

_____/s/
Amy M. Wood, Clerk

A copy of the foregoing
was sent to:
Krista Wood
Joshua Aston, ADOC 217096 (mailed)
Hon Suzanne E Cohen
Hon Jeff Fine
Arizona Department of Corrections
Arizona Department of Public Safety

APPENDIX F

IN THE
COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE



DIVISION ONE
FILED: 12/30/22
AMY M. WOOD,
CLERK
BY: JT

STATE OF ARIZONA,) Court of Appeals
) Division One
Respondent,) No. 1 CA-CR 22-0143 PRPC
)
v.) Maricopa County
) Superior Court
JOSHUA ASTON,) No. CR2004-006474-001
)
Petitioner.)
_____)

MANDATE

TO: The Maricopa County Superior Court and the Honorable Suzanne E Cohen, Judge, in relation to Cause No. CR2004-006474-001.

This cause was brought before Division One of the Court of Appeals in the manner prescribed by law. This Court rendered its MEMORANDUM DECISION and caused the same to be filed on November 15, 2022.

The motion for reconsideration was denied and notice thereof was given on December 8, 2022. The time for the filing of a petition for review has expired and no such petition was filed.

NOW, THEREFORE, YOU ARE COMMANDED to conduct such proceedings as required to comply with the MEMORANDUM DECISION of this court; a copy of which is attached hereto.

I, Amy M. Wood, Clerk of the Court of Appeals, Division One, hereby certify the attachment to be a full and accurate copy of the MEMORANDUM DECISION filed in this cause on November 15, 2022.

IN WITNESS WHEREOF, I hereunto set my hand and affix the official seal of the Arizona Court of Appeals, Division One, on December 30, 2022.



AMY M. WOOD, CLERK

By jt
Deputy Clerk

APPENDIX G

IN THE
COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE



DIVISION ONE
FILED: 12/8/22
AMY M. WOOD,
CLERK
BY: KLE

STATE OF ARIZONA,)
) Court of Appeals
) Division One
Respondent,) No. 1 CA-CR 22-0143 PRPC
)
v.) Maricopa County
) Superior Court
JOSHUA ASTON,) No. CR2004-006474-001
)
Petitioner.)
)
)
)

ORDER DENYING MOTION FOR RECONSIDERATION

This court, Presiding Judge Maria Elena Cruz, Judge Angela K. Paton, and Judge Peter B. Swann¹ participating, has reviewed Petitioner's motion for reconsideration filed on November 27, 2022. After consideration,

IT IS ORDERED denying Petitioner's motion.

/s/
Maria Elena Cruz, Presiding Judge

A copy of the foregoing
was sent to:

Krista Wood
Joshua Aston ADOC 217096 (mailed)

¹ Judge Peter B. Swann was a sitting member of this court when the matter was assigned to this panel of the court. He retired effective November 28, 2022. In accordance with the authority granted by Article 6, Section 3, of the Arizona Constitution and pursuant to A.R.S. § 12-145, the Chief Justice of the Arizona Supreme Court has designated Judge Swann as a judge *pro tempore* in the Court of Appeals for the purpose of participating in the resolution of cases assigned to this panel during his term in office.

APPENDIX H

NOTICE: NOT FOR OFFICIAL PUBLICATION.
UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL
AND MAY BE CITED ONLY AS AUTHORIZED BY RULE.

IN THE
ARIZONA COURT OF APPEALS
DIVISION ONE

STATE OF ARIZONA, *Respondent*,

v.

JOSHUA ASTON, *Petitioner*.

No. 1 CA-CR 22-0143 PRPC
FILED 11-15-2022

Petition for Review from the Superior Court in Maricopa County
No. CR2004-006474-001
The Honorable Suzanne E. Cohen, Judge

REVIEW GRANTED; RELIEF DENIED

COUNSEL

Maricopa County Attorney's Office, Phoenix
By Krista Wood
Counsel for Respondent

Joshua Aston, Eloy
Petitioner

STATE v. ASTON
Decision of the Court

MEMORANDUM DECISION

Presiding Judge Maria Elena Cruz, Judge Angela K. Paton, and Judge Peter B. Swann delivered the decision of the Court.

PER CURIAM:

¶1 Petitioner Joshua Aston seeks review of the superior court's order denying his petition for post-conviction relief. This is petitioner's fourth successive petition.

¶2 Absent an abuse of discretion or error of law, this court will not disturb a superior court's ruling on a petition for post-conviction relief. *State v. Gutierrez*, 229 Ariz. 573, 577, ¶ 19 (2012). It is petitioner's burden to show that the superior court abused its discretion by denying the petition for post-conviction relief. *See State v. Poblete*, 227 Ariz. 537, 538, ¶ 1 (App. 2011) (petitioner has burden of establishing abuse of discretion on review).

¶3 We have reviewed the record in this matter, the superior court's order denying the petition for post-conviction relief, and the petition for review. We find that petitioner has not established an abuse of discretion.

¶4 We grant review and deny relief.



AMY M. WOOD • Clerk of the Court
FILED: AA

APPENDIX I

SUPREME COURT OF ARIZONA

STATE OF ARIZONA,)	Arizona Supreme Court
)	No. CR-22-0314-PR
Respondent,)	
)	Court of Appeals
v.)	Division One
)	No. 1 CA-CR 22-0143 PRPC
JOSHUA ASTON,)	
)	Maricopa County
Petitioner.)	Superior Court
)	No. CR2004-006474-001
)	
		FILED: 01/13/2023

O R D E R

Petitioner Aston filed a pro se "Motion Requesting the Court Accept a Delayed Petition for Review Due to Extraordinary Circumstances" on January 12, 2023. After consideration,

IT IS ORDERED granting the motion. The Petition for Review filed by Petitioner Aston on December 29, 2022, shall be deemed timely filed.

DATED this 13th day of January, 2023.

/s/
Tracie K. Lindeman
Clerk of the Court

TO:

Alice Jones
Krista Wood
Joshua Aston, ADOC 217096, Arizona State Prison, La Palma
Correctional Center
Amy M Wood
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