

No.

IN THE
SUPREME COURT OF THE UNITED STATES

EARL FELTON CRAGO - PETITIONER

VS.

STATE OF ARIZONA - RESPONDENT(S)

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APPENDIX A

A

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Respondent,

v.

EARL FELTON CRAGO JR.,
Petitioner.

No. 2 CA-CR 2024-0062-PR
Filed July 31, 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NOT FOR PUBLICATION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 Cochise County
No. CR94000471
The Honorable Joel A. Larson, Judge

REVIEW GRANTED; RELIEF DENIED

Earl F. Crago, Buckeye
In Propria Persona

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MEMORANDUM DECISION

Presiding Judge Sklar authored the decision of the Court, in which Vice Chief Judge Eppich and Judge Brearcliffe concurred.

S K L A R, Presiding Judge:

¶1 Earl Crago Jr. seeks review of the trial court's order summarily dismissing his successive petition for post-conviction relief filed pursuant to Rule 32, Ariz. R. Crim. P. We will not disturb that ruling unless the court abused its discretion. *See State v. Martinez*, 226 Ariz. 464, ¶ 6 (App. 2011). Crago has not met his burden of establishing such abuse.

¶2 After a jury trial, Crago was convicted of first-degree murder, committed in September 1994, and sentenced to life in prison without the possibility of release for twenty-five years. The court also ordered that Crago was "required to do mandatory community supervision sentence – one day for every seven days sentenced to, for a total of 3 years, 7 months." We affirmed Crago's conviction and sentence on appeal, denied relief in part on a consolidated petition for review of the denial of his first petition for post-conviction relief, and remanded for an evidentiary hearing on two claims of ineffective assistance of counsel. *State v. Crago*, Nos. 2 CA-CR 95-0488, 2 CA-CR 98-0230-PR, ¶¶ 28-34 (consolidated) (Ariz. App. Mar. 18, 1999) (mem. decision). We subsequently denied relief on Crago's petition for review of the denial of post-conviction relief after the evidentiary hearing. *State v. Crago*, No. 2 CA-CR 00-0259-PR (Ariz. App. Mar. 13, 2001) (mem. decision).

¶3 Crago has since sought and been denied post-conviction relief numerous times. In several of those proceedings, Crago made claims related to his sentence. In 2010, he filed a petition asserting that he had been sentenced to a twenty-five-year determinate prison term and the Arizona Department of Corrections had illegally modified his sentence by "recalculat[ing] his release eligibility" to remove the term of community supervision. The trial court dismissed that petition, noting that Crago had been sentenced to a life term with the option to apply for release after having served twenty-five years and, although the term of community supervision was improper, it lacked authority to vacate it. On review, we agreed with the trial court, stating that Crago's "sentence was and always

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has been one of life, and his sentence expiration date was and always has been the end of his life.” *State v. Crago*, No. 2 CA-CR 2011-0162-PR, ¶ 9 (Ariz. App. Sept. 9, 2011) (mem. decision). We further observed that, although the trial court correctly concluded the term of community supervision was improper, it “had no bearing on Crago’s life sentence.” *Id.* ¶¶ 9, 11.

¶4 In 2019, Crago again sought post-conviction relief asserting his sentence was a twenty-five-year determinate term, not a life sentence. The trial court concluded that Crago was “eligible for parole after having served 25 years pursuant to his sentence and his illegally lenient sentence is final under Arizona law.” The court further ordered that Crago “be placed on community supervision for the term imposed by the sentencing judge.” Pursuant to the state’s petition for review, we granted relief. *State v. Crago*, No. 2 CA-CR 2021-0011-PR (Ariz. App. Mar. 25, 2021) (mem. decision). We determined the issue was precluded pursuant to Rule 32.2(a)(2) because it had been raised and rejected on its merits in Crago’s 2010 post-conviction proceeding.¹ *Id.* ¶ 21.

¶5 In January 2023, Crago filed a petition for post-conviction relief asserting that, in repeatedly rejecting his determinate-sentence claim, the trial court and this court effectively corrected his “illegally lenient” twenty-five-year prison term but lacked jurisdiction to do so. The trial court summarily dismissed the petition, concluding that no court order had “made any change to [Crago]’s life sentence imposed in 1995.” This petition for review followed the court’s denial of Crago’s motion for rehearing.

¶6 On review, Crago repeats his claim. Insofar as he attacks the propriety of this court’s decisions, Crago unsuccessfully sought review of both our 2011 memorandum decision rejecting his determinate-sentence claim on its merits and of our 2021 memorandum decision concluding that claim was precluded. *State v. Crago*, No. CR-21-0150-PR (Ariz. Jul. 5, 2022) (minute entry); *State v. Crago*, No. CR-11-0349-PR (Ariz. Feb. 23, 2012) (minute entry). To the extent his claim is cognizable under Rule 32.1(d) as a claim that he is being held beyond the expiration of his sentence, we have explained that, although the community supervision term is contrary to law, it has no effect on the length of his sentence or his eligibility for release.

¹We additionally concluded that *Chaparro v. Shinn*, 248 Ariz. 138 (2020), was not a significant change in the law applicable to Crago’s case. *Id.* ¶¶ 15-18; *see also* Ariz. R. Crim. P. 32.1(g).

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His sentence has not changed since it was imposed.² His determinate-sentence claim is not only meritless, it has been rejected on its merits and is precluded, as is his attempt to repackage that claim as a jurisdictional argument. *See Ariz. R. Crim. P. 32.2(a)(2).*

¶7 We grant review but deny relief.

²Crago refers to a 2014 order issued by the Ninth Circuit stating that "the 2011 state court decisions effectively amended [Crago]'s judgment of conviction by removing the community supervision provision from his sentence." That characterization is incorrect.

APPENDIX B

APPENDIX I



Supreme Court
STATE OF ARIZONA

ANN A. SCOTT TIMMER
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

February 7, 2025

RE: STATE OF ARIZONA v EARL FELTON CRAGO JR.

Arizona Supreme Court No. CR-24-0227-PR
Court of Appeals, Division Two No. 2 CA-CR 24-0062 PRPC
Cochise County Superior Court No. CR94000471

GREETINGS:

The following action was taken by the Supreme Court of the State of Arizona on February 6, 2025, in regard to the above-referenced cause:

ORDERED: Petition for Review to the Arizona Supreme Court = DENIED.

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

Tracie K. Lindeman, Clerk

TO:

Alice Jones
Brian M. McIntyre
Earl Felton Crago Jr, ADOC 115357, Arizona State Prison,
 Lewis - Stiner
Lisa V. Howell
leg...

**Additional material
from this filing is
available in the
Clerk's Office.**