

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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL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.

TAVIST LATRIZ HAWKINS, *Petitioner*.

No. 1 CA-CR 14-0526 PRPC
FILED 8-4-2016

Petition for Review from the Superior Court in Maricopa County
No. CR2012-165220-001
The Honorable Rosa Mroz, Judge

REVIEW GRANTED; RELIEF DENIED

COUNSEL

Maricopa County Attorney's Office, Phoenix
By Robert E. Prather
Counsel for Respondent

Tavist Latriz Hawkins, Kingman
Petitioner Pro Se

MEMORANDUM DECISION

Presiding Judge Andrew W. Gould, Chief Judge Michael J. Brown and
Judge Kenton D. Jones delivered the decision of the court.

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PER CURIAM:

¶1 Petitioner Tavist Latriz Hawkins petitions this court for review from the dismissal of his petition for post-conviction relief. We have considered the petition for review and, for the reasons stated, grant review and deny relief.

¶2 Hawkins pled guilty to armed robbery and the trial court sentenced him to a stipulated, presumptive term of five years' imprisonment. Hawkins filed a pro se petition for post-conviction relief after his counsel found no colorable claims for relief. The trial court summarily dismissed the petition and Hawkins now seeks review. We have jurisdiction pursuant to Arizona Rule of Criminal Procedure 32.9(c) and Arizona Revised Statute ("A.R.S.") section 13-4239(C) (2010).

¶3 The petition for review presents four issues. Hawkins argues (1) the superior court had no jurisdiction over him, (2) he has newly discovered evidence of a video that exonerates him, (3) the State failed to timely disclose the existence of the video and (4) he was forced to enter into the plea agreement.

¶4 We deny review. First, the offense was a felony offense that Hawkins committed in Maricopa County. Therefore, the Maricopa County superior court had jurisdiction over Hawkins and his case. Ariz. Cont. art. 6, § 14(4); A.R.S. § 12-123(A) (2012). Second, Hawkins has failed to present a colorable claim of newly discovered evidence. He offers no evidence a video exists or, if it does exist, whether it contains exculpatory evidence. Regarding the alleged disclosure violation, Hawkins waived any potential disclosure issue when he entered into his plea agreement. *See State v. Moreno*, 134 Ariz. 199, 200 (App. 1982) (A plea agreement waives all non-jurisdictional defenses, errors and defects which occurred prior to the plea.).

¶5 Hawkins has also failed to present a colorable claim his plea was involuntary. Hawkins told the trial court at the change of plea hearing that his plea was voluntary and that no one forced or threatened him to plead guilty. Statements to the court at a change of plea regarding voluntariness are normally binding on defendant. *State v. Hamilton*, 142 Ariz. 91, 93 (1984). When Hawkins later filed a motion to withdraw from the plea because he claimed he did not enter it voluntarily, the trial court offered to let Hawkins withdraw from the plea at his sentencing. However, while Hawkins complained to the court at that time about the manner in which his case had proceeded and the State's purported failure to follow

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procedural rules, he never claimed his plea was involuntary. Hawkins ultimately withdrew his motion and asked the court to proceed to sentencing. The court held that “after extensive discussions” with Hawkins, it still found he entered into his plea knowingly, intelligently and voluntarily. When the court asked Hawkins if he thought the court’s finding was incorrect, Hawkins answered, “No. It’s all right.”

¶6 We grant review and deny relief.



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