

2018 WL 3202762

Only the Westlaw citation is currently available.

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NOT FOR PUBLICATION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).
Court of Appeals of Arizona,
Division 2.

THE STATE OF ARIZONA, Respondent,

v.

ARVEL CHARLES HINES, Petitioner.

No. 2 CA-CR 2018-0084-PR

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Filed June 29, 2018Petition for Review from the Superior Court in Yavapai
County

Nos. V1300CR820090385 and V1300CR201680125

The Honorable [Michael R. Bluff](#), Judge**REVIEW GRANTED; RELIEF DENIED****Attorneys and Law Firms**

[Sheila Polk](#), Yavapai County Attorney By [Patti M.
Wortman](#), Supervising Deputy County Attorney, Camp
Verde Counsel for Respondent

Arvel Hines, Douglas In Propria Persona

Presiding Judge [Staring](#) authored the decision of the
Court, in which Chief Judge [Eckerstrom](#) and Judge
[Brearcliffe](#) concurred.

MEMORANDUM DECISION**STARING**, Presiding Judge:

*1 ¶1 Arvel Hines seeks review of the trial court's order summarily denying his petition for post-conviction relief filed pursuant to Rule 32, Ariz. R. Crim. P. We will not disturb that order unless the court abused its discretion. See *State v. Roseberry*, 237 Ariz. 507, ¶7 (2015). Hines has not shown such abuse here.

¶2 In 2009, Hines pled guilty to aggravated **driving** under the **influence**, endangerment, and child abuse. The trial court sentenced him to concurrent prison terms for **driving** under the **influence** and endangerment, the longer of which was 4.5 years. For child abuse, the court suspended the imposition of sentence and placed Hines on a four-year term of intensive probation.

¶3 In 2016, Hines pled guilty to aggravated driving with a blood alcohol concentration of .15 or greater. As a result, the trial court revoked Hines's probation. The court imposed a 2.5-year prison term for child abuse, to be followed by a seven-year prison term for aggravated driving with a blood alcohol concentration of .15 or greater.

¶4 Hines filed a notice of post-conviction relief, and appointed counsel filed a notice stating he had reviewed the record in both cause numbers but found no claims to raise pursuant to Rule 32. Hines then filed a pro se petition arguing the state had violated the Equal Protection Clause by withdrawing a plea offer and his counsel had been ineffective in failing to “secure” that offer before it was withdrawn. The trial court summarily denied relief, and this petition for review followed.

¶5 On review, Hines repeats his claim that the state violated the Equal Protection Clause by withdrawing its first plea offer.¹ But, even if this claim had merit, Hines waived it by pleading guilty. “By entering a guilty plea, a defendant waives all non-jurisdictional defects and defenses.” *State v. Leyva*, 241 Ariz. 521, ¶18 (App. 2017), quoting *State v. Banda*, 232 Ariz. 582, ¶12 (App. 2013). Hines also asserts, for the first time on review, that his aggregate sentence is excessive. We do not address claims not raised below. See *State v. Fowler*, 156 Ariz. 408, 414 (App. 1987).

¶6 We grant review but deny relief.

All Citations

Not Reported in P.3d, 2018 WL 3202762

Footnotes

1 Hines does not assert on review that the trial court erred by rejecting his claim of ineffective assistance of counsel.

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