

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND  
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.  
See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24

FILED BY CLERK

NOV 10 2011

COURT OF APPEALS  
DIVISION TWO

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION TWO

ISIAH HILL,	)	2 CA-HC 2011-0002
	)	DEPARTMENT A
Petitioner/Appellant,	)	
	)	<u>MEMORANDUM DECISION</u>
v.	)	Not for Publication
	)	Rule 28, Rules of Civil
HON. BOYD T. JOHNSON, Judge of the	)	Appellate Procedure
Superior Court of the State of Arizona, in	)	
and for the County of Pinal and CHUCK	)	
RYAN, Director, Arizona Department of	)	
Corrections,	)	
	)	
Respondents/Appellees.	)	

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APPEAL FROM THE SUPERIOR COURT OF PINAL COUNTY

Cause No. S1100CV200902783

Honorable Boyd T. Johnson, Judge

AFFIRMED

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Isiah Hill

Florence  
In Propria Persona

Thomas C. Horne, Arizona Attorney General  
By Terry Harrison

Phoenix  
Attorneys for  
Respondents/Appellees

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H O W A R D, Chief Judge.

¶1 Isiah Hill appeals from the trial court’s denial of his petition for writ of mandamus, in which he sought release from custody. For the following reasons, we affirm.

¶2 Hill currently is incarcerated in Florence, Arizona for prison terms imposed by the Maricopa County Superior Court after he pleaded guilty to two counts of conspiracy to illegally control an enterprise and one count each of conspiracy to commit burglary, use of an electronic communication in a drug-related transaction, kidnapping, illegal control of an enterprise, attempted child prostitution, and pandering. In 2009, Hill filed a petition for writ of habeas corpus in Pinal County Superior Court. Relying on Rule 32.3, Ariz. R. Crim. P., the trial court denied Hill’s request for habeas corpus relief and ordered the matter transferred “to the Court in which the convictions occurred” in Maricopa County, “under criminal cause CR2006-0096140, for all further proceedings.” We affirmed the court’s signed minute entry order on appeal. *Hill v. Ariz. Dept. of Corr.*, No. 2 CA-HC 2009-0005 (memorandum decision filed Feb. 10, 2010).

¶3 As we explained in that memorandum decision, “[t]he writ of habeas corpus is not the appropriate remedy to review irregularities or mistakes in a lower court unless they pertain to jurisdiction,” and we agreed with the trial court that Hill’s claims, properly understood, did not pertain to the court’s jurisdiction but only to “the regularity of the proceedings.” *Hill*, No. 2 CA-HC 2009-0005, ¶¶ 5-6, quoting *State v. Court of Appeals*, 101 Ariz. 166, 168, 416 P.2d 599, 601 (1966). In other words, we agreed that Hill’s claims were not cognizable on habeas review, but instead were “properly cognizable under Rule 32.” *Id.* ¶¶ 6-7.

¶4 Accordingly, we found the trial court was correct in concluding Rule 32.3 required the transfer of Hill’s habeas corpus petition to the court in which he had been

convicted, and we affirmed that decision. *Id.* ¶ 6. Under the same rule, after the transfer had been made, the court in which Hill was convicted was required to “treat [Hill’s petition] as a petition for relief” under Rule 32. Ariz. R. Crim. P. 32.3.

¶5 After our mandate issued, Hill filed a petition for writ of mandamus in the Pinal County Superior Court seeking an expedited release from custody. He maintained this court had declared his claims “known or valid,” and that, therefore, “his sentence/conviction is void,” based on our statement that he had raised “only claims properly cognizable under Rule 32.” *Hill*, No. 2 CA-HC 2009-0005, ¶ 7. The trial court denied relief, finding Hill had presented “no valid basis in law or fact . . . upon which this Court could or should issue a Writ of Mandamus directing that he be released from custody.”

¶6 Pursuant to Rules 1 and 8, Ariz. R. P. Spec. Actions, we construe Hill’s appeal as one from a superior court’s denial of a petition for special action. We defer to the trial court’s findings of fact if they are reasonably supported by the evidence and review de novo its conclusions of law. *See GST Tucson Lightwave, Inc. v. City of Tucson*, 190 Ariz. 478, 482, 949 P.2d 971, 975 (App. 1997). The court did not err in denying Hill’s petition for relief.

¶7 Contrary to Hill’s argument, this court never considered or addressed the merits of the claims for post-conviction relief he raised in his previous petition for habeas corpus. *See Hill*, No. 2 CA-HC 2009-0005. Rather, we considered only the nature of his claims to determine whether they were the type of claims that might be recognized in a habeas proceeding or the type of claims that could be raised only pursuant to Rule 32. *Id.* ¶¶ 5-6. We concluded the only proceeding available to address Hill’s claims was a Rule 32 proceeding, and we approved the trial court’s transfer to the court of conviction for

that purpose, pursuant to Rule 32.3. *Id.* ¶¶ 6-7; *see also Black’s Law Dictionary* 276 (8th ed. 2004) (definitions of “cognizable” include “[c]apable of being known or recognized” and “[c]apable of being judicially tried or examined before a designated tribunal; within the court’s jurisdiction”). We did not grant Hill relief, and we left to the court of conviction all determinations to be made in his Rule 32 proceeding, including determinations of whether his claims were precluded and, if not, whether they were colorable or could be dismissed summarily. *Id.* *See* Ariz. R. Crim. P. 32.6(c).<sup>1</sup>

¶8 The trial court did not err in denying the relief Hill requested, and its order is affirmed.

/s/ Joseph W. Howard  
JOSEPH W. HOWARD, Chief Judge

CONCURRING:

/s/ Peter J. Eckerstrom  
PETER J. ECKERSTROM, Presiding Judge

/s/ J. William Brammer, Jr.  
J. WILLIAM BRAMMER, JR., Judge

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<sup>1</sup>Although Hill asserts “the original trial court in Maricopa County . . . rejected/refused the transfer,” he has provided no records of actions taken by that court which, in any event, would not be before us on appeal. *See* Ariz. R. Crim. P. 32.9(c) (review of trial court’s actions in Rule 32 proceedings must be raised by petition for review by “the appropriate appellate court”).