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SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

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April 24, 1997

HON. PETER T. D'ANGELO

A. Moore
Deputy

Nº CR 163419

FILED: APR 30 1997

STATE OF ARIZONA

Attorney General
By: Dawn Northup

v.

SAMUEL VILLEGAS LOPEZ

Robert W. Doyle

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Department of Public Safety
2102 W. Encanto Blvd.
Phoenix, AZ 85005

The Court is in receipt of Defendant's Petition for Post-Conviction Relief, Supplemental Petition for Post-Conviction Relief, and the State's Opposition to the Petition for Post-Conviction Relief. No timely Reply is noted.

The Court has duly reviewed the Petition, Supplemental Petition, Opposition, files and records herein, and disregarding defects of form **THE COURT DETERMINES** that no material issue of fact or law exists which would be served by any further proceedings.

IT IS ORDERED dismissing the Petition.

This order is based upon the following findings:

- 1) Petitioner has failed to establish that counsel's performance fell below prevailing professional norms.
- 2) Petitioner has failed to show that there is a reasonable probability that

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STATE V. LOPEZ

Continued

the result of the trial or sentencing procedures would have been different because of counsel's alleged ineffective assistance.

3) Petitioner's claims relating to victim impact evidence has been waived by failing to raise it on direct appeal. Petitioner has failed to raise this issue in either of the two direct appeals; thus, the issue is waived and/or precluded.

4) Petitioner has failed to establish a colorable claim relating to newly discovered evidence.

5) Petitioner has failed to factually prove that a stricken juror served on the jury panel.

IT IS FURTHER ORDERED that Exhibit 66 be released to the Department of Public Safety Crime Lab to determine whether DNA testing can be done on the sample. If so, any DNA testing shall be conducted by the Department of Public Safety Crime Lab in Flagstaff, Arizona.

In the event testing can be done, Petitioner is ordered to submit a blood sample to the Department of Public Safety.

cc: Exhibits