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This opinion shall not "constitute precedent or be binding upon any court."
Although it is posted on the internet, this opinion is binding only on the
parties in the case and its use in other cases is limited. R.1:36-3.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-2407-15T1

STATE OF NEW JERSEY,

Plaintiff-Respondent,

v.

LORENZO SOLOMAN,

Defendant-Appellant.

Submitted May 25, 2017 - Decided June 28, 2017

Before Judges Lihotz and Hoffman.

On appeal from Superior Court of New Jersey,
Law Division, Monmouth County, Indictment No.
09-07-1492.

Joseph E. Krakora, Public Defender, attorney
for appellant (Alan I. Smith, Designated
Counsel, on the brief).

Christopher J. Gramiccioni, Monmouth County
Prosecutor, attorney for respondent (Mary R.
Juliano, Assistant Prosecutor, of counsel and
on the brief; Vanessa L. Coleman, Legal
Assistant, on the brief).

PER CURIAM

Defendant Lorenzo Soloman appeals from an April 21, 2015 order denying his petition for post-conviction relief (PCR), without an evidentiary hearing.

On appeal, defendant argues:

POINT I

THE ORDER DENYING [PCR] SHOULD BE REVERSED AND THE MATTER REMANDED FOR AN EVIDENTIARY HEARING BECAUSE TRIAL COUNSEL'S FAILURE TO ADVISE DEFENDANT OF THE CONSEQUENCES THAT HIS GUILTY PLEA WOULD HAVE ON HIS ELIGIBILITY FOR SOCIAL SECURITY BENEFITS AND OTHER SERVICES FOR THE DEVELOPMENTALLY DISABLED SATISFIED PRIMA FACIE INEFFECTIVE ASSISTANCE OF COUNSEL CRITERIA.

POINT II

DEFENDANT MADE A PRIMA FACIE SHOWING OF INEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL BECAUSE APPELLATE COUNSEL'S DECISION TO PRESENT DEFENDANT'S APPEAL BEFORE THE EXCESSIVE SENTENCE PANEL INSTEAD OF PURSUING A PLENARY APPEAL DEPRIVED DEFENDANT OF THE OPPORTUNITY TO ARGUE THAT THE TRIAL COURT ERRED IN DENYING THE APPLICATION TO ADJOURN THE SENTENCE IN ORDER TO PERMIT COUNSEL TO BE ASSIGNED TO PRESENT DEFENDANT'S MOTION TO WITHDRAW HIS GUILTY PLEA.

POINT III

THE ORDER DENYING POST-CONVICTION RELIEF SHOULD BE REVERSED BECAUSE IT VIOLATED DEFENDANT'S RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL AS GUARANTEED BY THE SIXTH AMENDMENT TO THE UNITED STATES CONSTITUTION.

We affirm.

Defendant negotiated a guilty plea. The State agreed to amend a charge for second-degree robbery, N.J.S.A. 2C:15-1 (count one) to third-degree theft, N.J.S.A. 2C:20-2b(2)(d), and amend a charge for second-degree aggravated assault, N.J.S.A. 2C:12-1b(1) (count two) to third-degree aggravated assault. At sentencing, defendant requested an adjournment to file a motion to withdraw his guilty plea, asserting as a developmentally disabled adult the consequences of the guilty plea were not understandably explained to him by counsel. The request was opposed by the State, not only because of a detailed factual basis taken when the plea was entered two months earlier following an examination of defendant's mental capacity, but also because defendant learned the victim passed away, prejudicing the State's ability to prove his guilt. Further, the judge noted one month earlier defendant was interviewed in preparation of the pre-sentence report. He explained he remembered exactly what he stated when he pled guilty, and was "standing by" those statements. Defendant made no mention of desiring to withdraw his plea, uttered no suggestion he did not understand the process or counsel's advice, nor did he assert counsel provided ineffective assistance.

The judge imposed sentence substantially as recommended by the plea agreement: on each count, thirty-eight days in the county jail, which had been served, and three years probation, the two

sentences to run concurrently with each other and concurrent to a municipal court sentence in Asbury Park. Applicable fines and penalties were imposed.

Defendant appealed from the imposed sentence. We affirmed after review on this court's excessive sentencing oral argument calendar, R. 2:9-11, on May 14, 2010.

Defendant filed a timely petition for PCR. Counsel was appointed and the trial judge conducted a hearing. See State v. Parker, 212 N.J. 269, 275 (2012). PCR was denied for the reason stated in a sixteen-page written opinion by Judge Ronald L. Reisner, which we have reviewed in light of defendant's arguments, the record, and applicable law.

Defendant's assertion of "negative consequences" adversely impacting his housing and employment assistance for the developmentally disabled does not support the first of the two-prong test required for PCR. See Strickland v. Washington, 466 U.S. 668, 687, 104 S. Ct. 2052, 2064, 80 L. Ed. 2d 674, 693 (1984); State v. Fritz, 105 N.J. 42, 58 (1987). The trial judge considered defendant's mental status, which was investigated and verified prior to plea and discussed at this hearing. Counsel communicated with the Division of Developmental Disabilities and information was provided related to the criminal matter. Defendant does not articulate what issues, if any, counsel failed to address. Nor

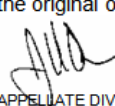
does he describe adverse effects he suffered as a consequence of his plea.

Also, where defendant's allegations "are too vague, conclusory or speculative . . . an evidentiary hearing need not be granted." State v. Marshall, 148 N.J. 89, 158, cert. denied, 522 U.S. 850, 118 S. Ct. 140, 139 L. Ed. 2d. 88 (1997) (citations omitted).

We find no merit to the arguments presented by defendant in this appeal. R. 2:3-11(e)(2). We affirm substantially for the reasons stated by Judge Reisner in his opinion.

Affirmed.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.


CLERK OF THE APPELLATE DIVISION