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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-3938-15T1

STATE OF NEW JERSEY,

Plaintiff-Respondent,

v.

JAMES COLEMAN, a/k/a IBN
EL-AMIN PASHA,

Defendant-Appellant.

Submitted November 9, 2017 – Decided December 1, 2017

Before Judges Koblitz and Suter.

On appeal from Superior Court of New Jersey,
Law Division, Middlesex County, Indictment No.
04-03-0255.

Joseph E. Krakora, Public Defender, attorney
for appellant (Michele A. Adubato, Designated
Counsel, on the briefs).

Andrew C. Carey, Middlesex County Prosecutor,
attorney for respondent (Nancy A. Hulett,
Assistant Prosecutor, of counsel and on the
brief).

PER CURIAM

Defendant James Coleman, also known as Ibn El-Amin Pasha,
appeals from a March 4, 2016 order denying his petition for post-

conviction relief (PCR) after oral argument but without an evidentiary hearing. We affirm substantially for the reasons expressed in Judge James F. Mulvihill's written opinion.

After two trials due to defendant's successful request to bifurcate the indictment, defendant was convicted of two 2003 shooting murders and numerous other charges involving stalking and terrorizing his wife, at times with a gun, which resulted in a sentence of 168 years in prison. See State v. Pasha, No. A-1590-05 (App. Div. July 31, 2008) (slip op. at 1-2) (affirming defendant's convictions on direct appeal), certif. denied, State v. Pasha, 197 N.J. 14 (2008). Defendant mounted a spirited defense at his trials. Although defendant did not testify, he called both fact and expert witnesses.

In his PCR appeal, defendant argues:

POINT I: THE PCR COURT'S DENIAL OF PETITIONER'S REQUEST FOR AN EVIDENTIARY HEARING WAS ERRONEOUS.

POINT II: THE PETITIONER'S CLAIMS WERE NOT BARRED BY R. 3:22-5.

POINT III: THE PETITION FOR POST-CONVICTION RELIEF SHOULD HAVE BEEN GRANTED BECAUSE MR. PASHA WAS DENIED THE EFFECTIVE ASSISTANCE OF COUNSEL GUARANTEED BY BOTH THE UNITED STATES AND NEW JERSEY CONSTITUTION.

New Jersey courts follow the rule formulated by the United States Supreme Court in Strickland v. Washington, 466 U.S. 668, 687, 104 S. Ct. 2052, 2064, 80 L. Ed. 2d 674, 693 (1984). To

show ineffective assistance a defendant must identify acts or omissions showing unreasonable professional judgment, and then must show that these errors had a prejudicial effect on the conviction. State v. Fritz, 105 N.J. 42, 58 (1987). The same standards are applied to ineffective assistance of appellate counsel claims. State v. Harris, 181 N.J. 391, 518 (2004).

In reviewing claims of ineffective assistance of counsel, we apply a strong presumption that defense counsel "rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Strickland, supra, 466 U.S. at 690, 104 S. Ct. at 2066, 80 L. Ed. 2d at 695. "[C]omplaints 'merely of matters of trial strategy' will not serve to ground a constitutional claim of inadequacy" Fritz, supra, 105 N.J. at 54 (quoting State v. Williams, 39 N.J. 471, 489, cert. denied, 374 U.S. 855, 83 S. Ct. 1924, 10 L. Ed. 2d 1075 (1963), overruled in part on other grounds by, State v. Czachor, 82 N.J. 392, 402 (1980)). "The quality of counsel's performance cannot be fairly assessed by focusing on a handful of issues while ignoring the totality of counsel's performance in the context of the State's evidence of defendant's guilt." State v. Castagna, 187 N.J. 293, 314 (2006). "As a general rule, strategic miscalculations or trial mistakes are insufficient to warrant reversal 'except in those rare instances where they are of such

magnitude as to thwart the fundamental guarantee of [a] fair trial.'" Id. at 314-15 (quoting State v. Buonadonna, 122 N.J. 22, 42 (1991)). "[A]n otherwise valid conviction will not be overturned merely because the defendant is dissatisfied with his or her counsel's exercise of judgment during the trial." State v. Allegro, 193 N.J. 352, 367 (2008) (quoting Castagna, supra, 187 N.J. at 314).

Judge Mulvihill reviewed in detail defendant's twenty-five claims of defense counsel's trial errors and seven claims of ineffective appellate counsel. On appeal, appellate PCR counsel grouped these claims into the following categories: 1) failure to conduct reasonable investigation; 2) failure to call certain witnesses; 3) failure to request a mistrial; 4) failure to object to admission of certain evidence; 5) failure to conduct adequate cross-examination of pivotal witnesses; 6) failure to communicate a plea offer to petitioner;¹ 7) failure to move for severance into four separate trials; 8) other claims; 9) ineffectiveness of appellate counsel; 10) cumulative errors; and 11) prejudice.


Judge Mulvihill discussed the alleged errors in light of the State's evidence, finding that had defense counsel used the trial

¹ The purported failure to communicate a plea offer was prior to a superseding indictment, and given defendant's continuing claim of innocence, he could not have given a factual basis in any event. State v. Tacetta, 200 N.J. 183, 186 (2009).

strategies now advanced by defendant, it would not have changed the outcome. Post-trial and post-appeal disagreement with strategy does not constitute ineffective assistance of counsel. Castagna, supra, 187 N.J. at 314-15. Judge Mulvihill determined that defendant failed to demonstrate his trial or appellate defense was constitutionally defective. He delineated the reasons in a careful and thorough fifty-three-page written 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