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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-4978-14T1

STATE OF NEW JERSEY,

Plaintiff-Respondent,

v.

CHRISTOPHER J. LOVE, a/k/a
CHRISTOPH J. LOVE,

Defendant-Appellant.

Submitted April 25, 2017 – Decided May 2, 2017

Before Judges Koblitz and Rothstadt.

On appeal from Superior Court of New Jersey,
Law Division, Camden County, Indictment No.
14-05-1480.

Joseph E. Krakora, Public Defender, attorney
for appellant (Brian P. Keenan, Assistant
Deputy Public Defender, on the brief).

Mary Eva Colalillo, Camden County Prosecutor,
attorney for respondent (Patrick D. Isbill,
Assistant Prosecutor, of counsel and on the
brief).

PER CURIAM

Defendant Christopher J. Love appeals from the denial of

his motion to withdraw his guilty plea prior to sentencing. We affirm substantially for the reasons expressed by Judge Gwendolyn Blue in her thorough oral opinion of May 29, 2015.¹

Defendant entered into a plea agreement with the State, in which he pled guilty to first-degree armed robbery, N.J.S.A. 2C:15-1(a)(1), and the State agreed to dismiss the remaining counts of the indictment: first-degree attempted murder, N.J.S.A. 2C:5-1, 2C:11-3; second-degree aggravated assault, N.J.S.A. 2C:12-1(b)(1); third-degree aggravated assault by causing bodily injury with a handgun, N.J.S.A. 2C:12-1(b)(2); fourth-degree aggravated assault, N.J.S.A. 2C:12-1(b)(4); third-degree aggravated assault by causing significant bodily injury, N.J.S.A. 2C:12-1(b)(7); second-degree unlawful possession of a handgun, N.J.S.A. 2C:39-5(b); second-degree possession of a handgun with the intent to use against another, N.J.S.A. 2C:39-4(a); and second-degree certain persons not to have handguns, N.J.S.A. 2C:39-7(b). Defendant admitted shooting the victim while robbing him. He had two prior convictions for indictable crimes. On the day he pled guilty, his family was in court and the judge allowed him to discuss his decision with his father. Defendant had previously offered to

¹ We did not receive an order denying defendant's motion, but the judge proceeded to sentence defendant on that date.

plead guilty to a thirteen-year prison exposure, but the State would not reduce his maximum exposure below fifteen years.

At his plea hearing, defendant acknowledged that he had had enough time to confer with his family. He stated under oath that he had reviewed the police reports, his attorney had answered all of his questions, and that he was "fully satisfied" with his attorney's "legal advice and services." He specifically expressed his satisfaction with the investigation his attorney had conducted on his behalf. When Judge Blue asked him, "Why are you pleading guilty, sir?" defendant replied, "Because I did it."

After the guilty plea, defendant's lawyer witnessed an incident between defendant and a sheriff's officer. Because the attorney was then a witness to a new charge against defendant, and because defendant wished to withdraw his plea, replacement counsel represented defendant for his motion to withdraw his plea pursuant to State v. Slater, 198 N.J. 145 (2009). He alleged he was not guilty of the crime and that his first attorney had not obtained the victim's cell phone, which would have revealed several conversations between the victim and the actual shooter. Defendant also alleged that his family told him that one of his family members was the actual shooter, and had admitted to the shooting. Defendant claimed he therefore had a "colorable claim of innocence." Defendant presented no certification or affidavit

from any witness, nor did he name the family member who was the purported actual shooter.

After evaluating the four Slater factors, in light of her observations of defendant at the time of his guilty plea and the reasons proffered for withdrawing the plea, Judge Blue denied defendant's motion. Slater, supra, 198 N.J. at 157-58.

Defendant raises the following issue on appeal:

POINT I: JUDGE BLUE ERRED IN DENYING DEFENDANT'S MOTION TO WITHDRAW HIS GUILTY PLEA PRIOR TO SENTENCING BECAUSE DEFENDANT PROFFERED A COLORABLE CLAIM OF INNOCENCE AND A STRONG REASON FOR WITHDRAWAL BASED ON NEW INFORMATION SUPPORTING HIS CLAIM OF INNOCENCE. STATE v. SLATER, 198 N.J. 145 (2007).

We note that "a protestation of innocence must be more than a mere assertion of nonguilt." State v. Phillips, 133 N.J. Super. 515, 519 (App. Div. 1975). Instead, "[d]efendants must present specific, credible facts and, where possible, point to facts in the record that buttress their claim." Slater, supra, 198 N.J. at 158 (emphasis added). As Judge Blue set forth in her opinion, defendant did not meet the criteria set forth by our Supreme Court to withdraw a guilty plea prior to sentencing.

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


CLERK OF THE APPELLATE DIVISION