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APPROVAL OF THE APPELLATE DIVISION**

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-0514-16T2

STATE OF NEW JERSEY,

Plaintiff-Respondent,

v.

JULIO ROMAN-MATOS,
a/k/a JULIO MATOS,

Defendant-Appellant.

Submitted January 18, 2018 – Decided April 4, 2018

Before Judges Simonelli and Rothstadt.

On appeal from Superior Court of New Jersey,
Law Division, Hudson County, Indictment No.
11-08-1430.

Julio Roman-Matos, appellant pro se.

Esther Suarez, Hudson County Prosecutor,
attorney for respondent (Roseanne Sessa,
Assistant Prosecutor, on the brief).

PER CURIAM

Defendant, Julio Roman-Matos, appeals from the denial of his
petition for post-conviction relief (PCR) without an evidentiary
hearing. For the reasons that follow, we affirm.

Defendant pled guilty to first-degree aggravated manslaughter, N.J.S.A. 2C:11-4(a), and received a sentence of eighteen years' imprisonment, subject to a No Early Release Act, N.J.S.A. 2C:43-7.2, parole ineligibility period. The sentence was less than the twenty-year term recommended by the prosecutor in the parties' plea agreement.

Defendant filed a direct appeal, arguing only that his sentence was excessive. We affirmed his sentence. State v. Roman-Matos, No. A-3926-12 (App. Div. Nov. 20, 2013).

On February 14, 2014, defendant filed his first PCR petition, which the trial court denied without an evidentiary hearing on September 16, 2014. He appealed and we affirmed the denial of PCR on September 28, 2015. State v. Roman-Matos, No. A-1428-14 (App. Div. Sept. 28, 2015). The Supreme Court denied his petition for certification. State v. Roman-Matos, 224 N.J. 245 (2016).

Defendant filed a second PCR petition in June 2016 that is the subject of this appeal. In his petition, defendant argued that his first trial counsel "coerced" him into accepting the State's plea offer by telling defendant he was likely to receive a ten-year sentence, as compared to the twenty years being recommended by the prosecutor. Defendant also contended that his subsequent attorney counseled him to not pursue a motion that defendant had filed to withdraw his plea, and also advised

defendant that he was likely to be sentenced to ten years. He supported his petition with a brief and his father's certification. In the certification, defendant's father stated that during a meeting with defendant's second trial counsel, the attorney told him that defendant would be sentenced to ten years and, as a result, the father "felt compelled to urge [his] son to 'not to withdraw his plea of guilty.'"

The PCR court denied defendant's petition by order dated September 1, 2016 and issued a letter advising him that his petition did not meet the requirements of Rule 3:22-4(b)(2) for the filing of a second PCR petition.

Defendant presents the following issues for our consideration in his appeal.

POINT I

COUNSEL WAS DEFICIENT IN FAILING TO EVER ASSERT THE ACTUAL FACTS OF WHAT APPELLANT ADMITTED TO, BEFORE ACCEPTING A PLEA; THEREBY, TOTALLY DENYING HIM EFFECTIVE COUNSEL — GUARANTEED BY HIS SIXTH AMENDMENT CONSTITUTIONAL RIGHTS — DURING CRITICAL PRETRIAL STAGES OF THE PLEA BARGAINING PROCESS; WHERE HE INFLUENCED APPELLANT TO BLINDLY MAKE AN UNKNOWING/INVOLUNTARY DECISION TO ACCEPT A DEAL PROMISING HE WILL GET THE LESSER PENALTY OF TEN YEARS OVER THE GREATER SENTENCE OF TWENTY YEARS.


POINT II

AN EVIDENTIARY HEARING SHOULD'VE
BEEN ORDERED, AND THE PETITION FOR
POST-CONVICTION RELIEF SHOULD NOT
BE BARRED.

We find defendant's arguments to be "without sufficient merit
to warrant discussion in a written opinion[.]" R. 2:11-3(e)(2).
We conclude that the PCR court correctly determined that
defendant's claims were barred under Rule 3:22-4(b)(2)(B)¹ because
defendant was clearly aware of the facts underlying his claim
before his first PCR petition was filed.

Affirmed.

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


CLERK OF THE APPELLATE DIVISION

¹ The Rule provides in pertinent part that a second PCR petition
"shall be dismissed unless . . . it alleges on its face . . . that
the factual predicate for the relief sought could not have been
discovered earlier" R. 3:22-4(b)(2)(B).