

**NOT FOR PUBLICATION WITHOUT THE
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-3022-16T4

STATE OF NEW JERSEY,

Plaintiff-Respondent,

v.

VICTOR MEJIA, a/k/a
VICTOR MANUEL MEJIA,

Defendant-Appellant.

Submitted January 30, 2018 – Decided February 22, 2018

Before Judges Reisner and Hoffman.

On appeal from Superior Court of New Jersey,
Law Division, Atlantic County, Indictment No.
10-03-0015.

Joseph E. Krakora, Public Defender, attorney
for appellant (Monique Moyse, Designated
Counsel, on the brief).

Gurbir S. Grewal, Attorney General, attorney
for respondent (Adam D. Klein, Deputy Attorney
General, of counsel and on the brief).

PER CURIAM

Defendant Victor Mejia appeals from a February 1, 2017 order
denying his petition for post-conviction relief (PCR). We affirm.

Defendant was arrested and charged with first-degree possession of cocaine with intent to distribute, N.J.S.A. 2C:35-5(a)(1), N.J.S.A. 2C:35-(b)(1), N.J.S.A. 2C:2-6, and second-degree conspiracy, N.J.S.A. 2C:5-2. At the time, defendant was not a United States citizen but was a legal resident. Facing a possible twenty-year prison term if convicted of the first-degree offense, he entered into a plea bargain under which he was permitted to plead guilty to third-degree conspiracy, N.J.S.A. 2C:35-5(a)(1), N.J.S.A. 2C:5-2(a)(1). Pursuant to the terms of the plea agreement, he received a suspended sentence of three years.

The record contains overwhelming documentation that defendant was advised of the possible immigration consequences of his guilty plea, including deportation. Defendant initialed the page of the plea form setting forth his answers to question seventeen, which addressed the immigration consequences of the plea.¹ In addition, both the trial judge and defendant's attorney addressed the immigration issue in defendant's presence on the record at the plea hearing on August 11, 2011.

¹ Defendant and his attorney completed the 2009 version of the plea form, except for question seventeen. Defendant and his attorney separately completed the updated 2011 version of question seventeen. That completed, initialed page appears in defendant's appendix, along with the rest of the completed plea form.

Defendant's counsel stated on the record that he had consulted with three immigration attorneys on defendant's behalf and had relayed their advice to defendant. Defense counsel also stated that he had told defendant that if he left the United States, he might have trouble getting back into the country, due to his conviction. The judge asked defendant: "You understand that since you are not a United States citizen and as a result of this guilty plea, you may be subject to be deported?" Defendant replied, "Yes." The judge then advised defendant that he had the right to consult with an immigration attorney "to see what your immigration rights are." Although defense counsel indicated that he had spoken to immigration attorneys, the judge directly asked defendant if he wanted an opportunity to personally consult an immigration attorney before entering his plea. Defendant said he did not.

At the sentencing hearing on October 7, 2011, defendant's counsel stated, in defendant's presence, that defendant "understands there may be immigration consequences." He also told the judge that defendant had consulted with "individualized counsel." When asked if he wanted to address the court, defendant stated that he did not.

Defendant, who was then thirty years old, had been in this country since he was a baby, and he did not need an interpreter at these proceedings. He does not claim that he misunderstood

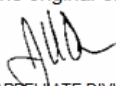
what the judge and his attorney said at the plea and sentencing hearings. Rather, he now claims that, outside of the court proceedings, his attorney advised him that there would be no immigration consequences to his guilty plea. Based on that assertion, he presents the following point of argument:

POINT ONE: MR. MEJIA IS ENTITLED TO AN EVIDENTIARY HEARING ON HIS CLAIM THAT TRIAL COUNSEL RENDERED INEFFECTIVE ASSISTANCE OF COUNSEL BY FAILING TO INFORM HIM OF THE DEPORTATION CONSEQUENCES OF HIS PLEA.

On this record, we find no error in the PCR judge's decision that an evidentiary hearing was not required. See R. 3:22-10(b). We affirm substantially for the reasons stated by Judge Donna M. Taylor in her January 25, 2017 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