

RECORD IMPOUNDED

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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-0112-21

STATE OF NEW JERSEY,

Plaintiff-Respondent,

v.

TRAVIS T. HARTSFIELD, JR.,

Defendant-Appellant.

Submitted January 19, 2023 – Decided January 25, 2023

Before Judges Haas and DeAlmeida.

On appeal from the Superior Court of New Jersey, Law Division, Essex County, Indictment No. 11-10-1865.

Joseph E. Krakora, Public Defender, attorney for appellant (David Gies, Designated Counsel, and Karen A. Lodeserto, on the briefs).

Theodore N. Stephens II, Acting Essex County Prosecutor, attorney for respondent (Frank J. Ducoat, Special Deputy Attorney General/Acting Assistant Prosecutor, of counsel and on the brief).

PER CURIAM

Defendant Travis T. Hartsfield, Jr. appeals from the Law Division's May 16, 2021 order denying his petition for post-conviction relief (PCR) without an evidentiary hearing. We affirm.

The underlying facts concerning the offenses involved in this matter are set forth in our prior opinion on defendant's direct appeal from his convictions for murder and second-degree endangering the welfare of a child in State v. Hartsfield, A-4452-14 (App. Div. Apr. 15, 2019), certif. denied, 240 N.J. 10 (2019). Therefore, those facts will not be repeated here. In that decision, we affirmed defendant's convictions and his aggregate life sentence, which was subject to the No Early Release Act, N.J.S.A. 2C:43-7.2.

Defendant thereafter filed a timely petition for PCR. Defendant asserted his trial attorney provided him with ineffective assistance because she: (1) discouraged him from testifying at the trial; (2) failed to advise him of the maximum sentence he faced; and (3) did not ask the trial judge to modify "the model jury charge regarding custodial statements by citing extensive social science literature"

Following oral argument, Judge Michael L. Ravin rendered a thorough written decision concluding that defendant did not satisfy the two-prong test of Strickland v. Washington, 466 U.S. 668, 687 (1984), which requires a showing

that trial counsel's performance was deficient and that, but for the deficient performance, the result would have been different. The judge found that the trial record amply demonstrated that defendant knew he had the right to testify and voluntarily waived that right. The judge further found that defendant was "advise[d] in no uncertain terms of the maximum sentence exposure" he faced during the pretrial conference and in the pretrial order. Finally, Judge Ravin noted that on defendant's direct appeal, the Appellate Division rejected defendant's argument that the model jury charge on custodial statements was "insufficient to instruct the jury as to the dangers of false confessions." Hartsfield, (slip op. at 39). Therefore, defendant could not demonstrate that the result would have been different if his attorney had raised this argument at trial. Because defendant raised only bald assertions to support his allegations, the judge concluded that an evidentiary hearing was not necessary.

On appeal, defendant raised the same arguments he unsuccessfully presented to the Law Division. Defendant contends:

POINT ONE

THE PCR COURT ERRED IN DENYING
[DEFENDANT] AN EVIDENTIARY HEARING AS
TESTIMONY IS NEEDED FROM PRIOR COUNSEL
EXPLAINING WHY SHE PRESSURED
[DEFENDANT] NOT TO TESTIFY AT TRIAL.

POINT TWO

THE PCR COURT ERRED IN DENYING [DEFENDANT] AN EVIDENTIARY HEARING AS TESTIMONY IS NEEDED FROM PRIOR COUNSEL EXPLAINING WHY SHE FAILED TO ADVISE [DEFENDANT] OF HIS SENTENCE EXPOSURE IF HE WERE CONVICTED AT TRIAL.

POINT THREE

THE PCR COURT ERRED IN DENYING [DEFENDANT] AN EVIDENTIARY HEARING AS TESTIMONY IS NEEDED FROM PRIOR COUNSEL EXPLAINING HER FAILURE TO REQUEST ADDITIONAL LANGUAGE TO THE JURY CHARGE FOR CONFESSIONS.

When petitioning for PCR, the defendant must establish, by a preponderance of the credible evidence, that he is entitled to the requested relief. State v. Nash, 212 N.J. 518, 541 (2013); State v. Preciose, 129 N.J. 451, 459 (1992). To sustain that burden, the defendant must allege and articulate specific facts that "provide the court with an adequate basis on which to rest its decision." State v. Mitchell, 126 N.J. 565, 579 (1992).

The mere raising of a claim for PCR does not entitle the defendant to an evidentiary hearing and the defendant "must do more than make bald assertions that he was denied the effective assistance of counsel." State v. Cummings, 321 N.J. Super. 154, 170 (App. Div. 1999). Rather, trial courts should grant

evidentiary hearings and make a determination on the merits only if the defendant has presented a prima facie claim of ineffective assistance, material issues of disputed facts lie outside the record, and resolution of the issues necessitates a hearing. R. 3:22-10(b); State v. Porter, 216 N.J. 343, 355 (2013). We review a judge's decision to deny a PCR petition without an evidentiary hearing for abuse of discretion. Preciose, 129 N.J. at 462.

To establish a prima facie claim of ineffective assistance of counsel, the defendant is obliged to show not only the particular manner in which counsel's performance was deficient, but also that the deficiency prejudiced his right to a fair trial. Strickland, 466 U.S. at 687; State v. Fritz, 105 N.J. 42, 58 (1987). There is a strong presumption that counsel "rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Strickland, 466 U.S. at 690. Further, because prejudice is not presumed, Fritz, 105 N.J. at 52, the defendant must demonstrate "how specific errors of counsel undermined the reliability" of the proceeding. United States v. Cronin, 466 U.S. 648, 659 n.26 (1984).

Having considered defendant's contentions in light of the record and the applicable law, we affirm the denial of defendant's PCR petition substantially for the reasons detailed in Judge Ravin's written opinion. We discern no abuse

of discretion in the judge's consideration of the issues, or in his decision to deny the petition without an evidentiary hearing. We are satisfied that the trial attorney's performance was not deficient, and defendant provided nothing more than bald assertions to the contrary.

Affirmed.

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



CLERK OF THE APPELLATE DIVISION