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**SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-1796-20**

STATE OF NEW JERSEY,

Plaintiff-Respondent,

v.

KATHLEEN M. DORSETT,

Defendant-Appellant.

Submitted September 14, 2022 – Decided March 6, 2023

Before Judges DeAlmeida and Mitterhoff.

On appeal from the Superior Court of New Jersey, Law Division, Monmouth County, Indictment No. 11-01-0207.

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

Lori Linskey, Acting Monmouth County Prosecutor, attorney for respondent (Lisa Sarnoff Gochman, Special Deputy Attorney General/Acting Assistant Prosecutor, of counsel and on the brief).

PER CURIAM

Defendant Kathleen M. Dorsett appeals from the August 12, 2020 orders of the Law Division dismissing her second petition for post-conviction relief (PCR) without an evidentiary hearing and denying her motion to withdraw her guilty plea to three charges relating to the murder of her former spouse, the desecration of his remains, and the attempted murder of the victim's mother. We affirm.

I.

In 2010, defendant conspired with her father, codefendant Thomas Dorsett, to kill her ex-husband, with whom she was engaged in a custody dispute involving their infant child. Defendant and Thomas¹ agreed that when the victim transferred custody of the child to defendant in her driveway, she would convince him on a pretext to go behind the garage, where Thomas would be waiting to kill him. At defendant's urging, the victim went behind the garage. Thomas struck him in the head, causing his death. After the murder, defendant and her father put the victim's body in the trunk of a car, which Thomas abandoned in a restaurant parking lot. Thomas then conspired with codefendant Anthony Morris to set fire to the car to destroy the victim's body.

¹ Because defendant and two of her codefendants share a last name, we refer to the codefendants by their first names. No disrespect is intended.

Defendant and Thomas were later arrested. While in the county jail, defendant conspired with her mother, codefendant Lesley Dorsett, to hire a hitman to kill the victim's mother. Defendant did not want her former mother-in-law to gain custody of her child. After obtaining the name of a hitman from another inmate at the jail, defendant directed Lesley to give the hitman cash, a photograph of the victim's mother, her address, and instructions to make her death appear to be from a medical episode. Unbeknownst to defendant and Lesley, the hitman was an undercover police officer and some of their conversations with him were recorded. After Lesley made the cash payment to the undercover officer, she too was arrested.

On January 31, 2011, a grand jury indicted defendant, charging her with: (1) first-degree conspiracy to commit murder (her former spouse), N.J.S.A. 2C:5-2 and 2C:11-3(a); (2) first-degree intentional murder (her former spouse), N.J.S.A. 2C:11-3(a); (3) three counts of fourth-degree tampering with physical evidence, N.J.S.A. 2C:28-6(1); (4) second-degree conspiracy to commit desecration of human remains, N.J.S.A. 2C:5-2 and 2C:22-1(a); (5) second-degree desecration of human remains, N.J.S.A. 2C:22-1(a); (6) third-degree conspiracy to commit financial facilitation, N.J.S.A. 2C:5-2 and 2C:21-25(e)(3); (7) third-degree financial facilitation, N.J.S.A. 2C:21-25(e)(3); (8) first-degree

conspiracy to commit murder (her former mother-in-law), N.J.S.A. 2C:5-2 and 2C:11-3; and (9) first-degree attempted murder (her former mother-in-law), N.J.S.A. 2C:5-1 and 2C:11-3.²

The grand jury also indicted Thomas charging him with the same offenses lodged against defendant, except for the charges relating to her former mother-in-law. In addition, Thomas was charged with: (1) second-degree conspiracy to commit aggravated arson, N.J.S.A. 2C:5-2 and 2C:17-1(a)(2); (2) first-degree arson for hire, N.J.S.A. 2C:17-1(d); and (3) third-degree witness tampering, N.J.S.A. 2C:28-5(a).

Finally, the grand jury indicted Lesley, charging her with: (1) first-degree conspiracy to commit murder, N.J.S.A. 2C:5-2 and 2C:11-3; (2) first-degree attempted murder, N.J.S.A. 2C:5-1 and 2C:11-3; (3) fourth-degree tampering with physical evidence, N.J.S.A. 2C:28-6(1); (4) third-degree conspiracy to commit financial facilitation, N.J.S.A. 2C:5-2 and 2C:21-25(e)(3); and (5) third-degree financial facilitation, N.J.S.A. 2C:21-25(e)(3).

Morris was indicted and charged with: (1) fourth-degree tampering with physical evidence, N.J.S.A. 2C:28-6(1); (2) second-degree conspiracy to

² The financial facilitation charges relate to bank transactions uncovered during the murder investigation.

commit aggravated arson, N.J.S.A. 2C:5-2 and 2C:17-1(a)(2); (3) first-degree arson for hire; N.J.S.A. 2C:17-1(d); and (4) second-degree conspiracy to commit desecration of human remains, N.J.S.A. 2C:5-2 and 2C:22-1(a).³

Defendant was represented pretrial by Barry Slott. The State moved to disqualify Slott as her counsel, arguing he had a conflict of interest because he previously represented the murder victim, and had long-standing social and professional relationships with Thomas and Lesley, the latter of who was paying his fees. In addition, Slott was simultaneously assisting Thomas and Lesley with respect to an unrelated homeowner's insurance claim. Defendant opposed the motion, testifying under oath that it was her "unqualified wish to have [Slott] as my lawyer" and waiving any conflict. She also submitted an affidavit to that effect. Thomas and Lesley submitted certifications denying Slott had formed an attorney-client relationship with them, stating that he was a friend and neighbor, but not their attorney. They also stated that if Slott was viewed as their attorney, they waived any conflict of interest arising from him representing defendant. The trial court denied the motion based on the three defendants' knowing, intelligent, and voluntary waivers of any conflict of interest.

³ Morris entered a guilty plea to second-degree conspiracy to commit desecration of human remains in exchange for his truthful testimony against the Dorsetts. The State agreed to recommend a seven-year term of imprisonment.

The trial court granted defendant's motion to sever the financial facilitation charges from the other counts in the indictment. In addition, the court severed the charges against defendant and Thomas related to the murder of defendant's former spouse from the charges against defendant and Lesley relating to the attempted murder of the victim's mother. The court denied a motion to also sever those counts by defendant. However, ten days later, the trial court granted the State's motion for reconsideration, rejoined the murder-related counts relating to both victims, but severed the charges by defendant. Defendant, therefore, would be tried for the murder and attempted murder together. She did not move for leave to appeal from the trial court's order.

The State offered the Dorsetts plea agreements. Each plea offer was contingent on the guilty pleas of the other two defendants. The offers required defendant to plead guilty to the murder of her former husband, the attempted murder of the victim's mother, and a conspiracy charge, and Thomas to plead guilty to the murder of his former son-in-law and the arson-for-hire charge. In exchange, the State would recommend significant terms of incarceration for both, but less than the life term to which defendant would otherwise be exposed if convicted on all counts of the indictment. Importantly, the State would also agree to allow Lesley to plead guilty to conspiracy to commit murder for which

it would recommend a relatively short term of imprisonment, significantly less than the twenty-year term she faced if convicted, giving her the chance to regain her freedom for a meaningful period after prison.

Defendant subsequently pleaded guilty to first-degree intentional murder, second-degree conspiracy to commit desecration of human remains, and first-degree attempted murder. In her plea allocution, defendant admitted that

On August 16, 2010, at approximately 7:30 a.m., [the victim] came to my residence . . . for a scheduled drop-off of our infant daughter. Approximately [thirty] minutes prior to [the victim's] arrival he texted me that he was on his way.

When he arrived, I told [him] to get his tools in the backyard of the driveway. After [the victim] was convinced to retrieve his tools, I took my daughter into my house, knowing all the time that my father [Thomas] was back there waiting to kill him.

As I was changing [my daughter's] diaper, I heard screaming coming from the driveway. By the time I secured my child and ran outside, [the victim] was in the driveway, lying in the driveway.

I sat down next to him in order to shield him from view of my next-door neighbor, [J.C.], who was yelling out her window, asking me what was wrong. I repeated several times to [J.C.] that everything was all right, and that she should shut her window

After my conversation with [J.C.] concluded, I assisted my father with lifting [the victim's] body into the trunk of my ex-mother-in-law's vehicle. My father drove off

with the car. And shortly thereafter he telephoned me to meet him at [a restaurant] in Long Branch. I met him there and then followed him to another location in Long Branch where the vehicle with [the victim's] dead body in it was abandoned. I then drove my father home.

After we arrived at my residence, we cleaned up the area where [the victim] was killed, and my father drove away with the cleaned-up items. . . . I know now that he disposed of everything in the dumpster at [the restaurant].

With respect to the attempted murder of the victim's mother, defendant stated:

During late December 2010, and early January 2011, I had numerous conversation with [A.A.], an inmate at [the county jail]. In my conversations, I discussed with [A.A.] her assistance in finding someone to kill my ex-mother-in-law, [E.M.]. I wanted my [ex-]mother-in-law killed so she could not have anything to say about my plea negotiations involving [the victim].

[A.A.] told me she could find someone to kill [E.M.] for me. And then I contacted my mother, [Lesley,] via the phone from the jail and told her to meet the hitman and give him \$1,000 as a deposit, and a picture and address for [E.M.] for the purpose of having her killed. I later learned that the hitman was an undercover police officer.

At the plea hearing, defendant and her counsel made no mention of defendant reserving the right to appeal the trial court's order granting the State's motion for reconsideration on consolidation of the charges. On defendant's plea form, question 4(d), "[d]o you understand that by pleading you are not waiving

your right to appeal" the denial of a motion to suppress physical evidence and the denial of acceptance into a pretrial intervention program, was marked "Yes," which was crossed out and changed to "N/A." However, question 4(e) of the form, "[d]o you further understand that by pleading guilty you are waiving your right to appeal the denial of all other pretrial motions except the following," was marked "No" and nothing was listed as an exception. The court did not attempt to clarify defendant's negative response to this question.

Pursuant to the plea agreement, the trial court sentenced defendant to a thirty-year term of imprisonment, with a thirty-year period of parole ineligibility, for murdering her ex-spouse, a consecutive eight-year term of imprisonment, with a four-year period of parole ineligibility, for the conspiracy to desecrate his remains, and a consecutive twenty-year period of imprisonment, with an eighty-five-percent period of parole ineligibility, for the attempted murder of the victim's mother.⁴

⁴ Thomas pleaded guilty to first-degree murder and first-degree arson for hire. The court sentenced Thomas to an aggregate forty-five-year term of imprisonment, with a thirty-year period of parole ineligibility. Lesley pleaded guilty to first-degree conspiracy to commit murder. The court sentenced Lesley to an aggregate seven-year term of incarceration with an eighty-five-percent period of parole ineligibility.

On direct appeal, defendant challenged only her sentence. We affirmed. State v. Dorsett, No. A-2224-13 (App. Div. Apr. 7, 2014).

On July 24, 2014, defendant filed her first PCR petition in the Law Division. She subsequently withdrew that petition. On January 23, 2015, the trial court entered an order dismissing that petition without prejudice.

On or about September 22, 2015, defendant, acting without counsel, refiled her first PCR petition and moved to withdraw her guilty plea. She alleged multiple claims of ineffective assistance of trial and appellate counsel:

- (1) trial counsel "actively misled" defendant by advising her that Lesley would "receive more than twenty years in prison" unless defendant pleaded guilty;
- (2) trial counsel failed to file a motion for a change of venue or for use of a foreign jury;
- (3) appellate counsel failed to raise on direct appeal the claim of improper joinder of counts of the indictment; and
- (4) trial counsel gave inconsistent advice regarding whether or not defendant should plead guilty.

First PCR counsel filed a memorandum of law supporting defendant's petition, raising additional grounds for relief:

- (1) Allowing defendant to plead guilty without factual basis and where plea was involuntary represents ineffective assistance of counsel, and compels a full

hearing on defendant's application for [PCR] pursuant to State v. Preciose, 129 N.J. 451 (199[2]).

(2) The plea entered in this matter was not voluntary and knowing and further there was an insufficient factual and legal basis to support the plea.

(3) The requirements for vacation of a guilty plea are met here as the plea was not made knowingly and voluntarily.

(4) State v. Slater factors militate in favor of plea vacation.

(5) The constituent elements supporting a conspiracy-murder charge/plea were not placed before the court.

(6) Defendant was coerced mentally into taking the plea which is the subject of this [PCR] application.

The first PCR court denied defendant's petition and motion. Defendant appealed that decision. Her counsel did not raise the consolidation issue before this court. We affirmed. State v. Dorsett, No. A-0311-16 (App. Div. June 7, 2018). The Supreme Court denied certification. State v. Dorsett, 236 N.J. 233 (2018).

On March 8, 2019, defendant filed a second PCR petition.⁵ She raised the following points:

- (1) First PCR counsel . . . failed to adequately prepare and exercise normal and customary skills in his preparation of defendant's PCR, failed to investigate claims of defendant and failed to properly present those claims to the court.
- (2) First PCR appellate counsel failed to adequately prepare and exercise normal and customary skills in his preparation of defendant's PCR appeal, and failed to raise issues of substantive merit on appeal, including ineffective assistance of trial, appeal, and first PCR counsels and other issues, and failed to properly present those claims to the court.
- (3) This second petition for [PCR] is timely.
- (4) Petitioner has presented a prima facie claim of ineffective assistance of first PCR and appellate counsel and should receive an evidentiary hearing.

In a self-represented brief, defendant raised the following issues:

- (1) First PCR counsel . . . failed to raise issues of substantial merit that petitioner insisted he raise, failed to investigate claims petitioner insisted he investigate, and failed to contact plea counsel despite repeated requests by both petitioner and plea counsel that he do so, if [he] would have contacted plea counsel, he would have known that plea counsel was admitting he was ineffective. [His] substandard performance violated

⁵ While the appeal of the dismissal of the first PCR petition was pending, defendant filed a second PCR petition. The court dismissed that petition without prejudice in 2017.

petitioner's due process rights and her right to the effective assistance of PCR counsel.

A. Pro se pleadings liberally construed.

B. [PCR] standard of review.

C. This second petition for [PCR] is timely filed.

D. First [PCR] and plea counsel were ineffective.

(i) Petitioner repeatedly asked [first] PCR counsel . . . to contact plea counsel and raise ineffective assistance due to plea counsel informing petitioner that in the event of a conviction, the Appellate Division would reverse her case due to an error by the lower court in not severing certain counts for trial, which induced her to plead guilty, but [first PCR counsel] refused to raise the issue.

(ii) Petitioner repeatedly asked [first] PCR counsel . . . to contact plea counsel and raise an extreme conflict of interest issue regarding plea counsel, but [he] refused.

(iii) Petitioner repeatedly asked [first] PCR counsel . . . to contact plea counsel . . . and raise the issue that [plea counsel] was ineffective for not raising, in a pretrial motion, that the [S]tate seized all her assets, which prevented her from hiring counsel of her choice.

(2) Petitioner should receive an evidentiary hearing on this matter.

In support of her second petition, defendant submitted certifications from herself, Slott, Thomas, Lesley, and an inmate paralegal. She also filed a motion to withdraw her guilty plea.

Appointed counsel filed a brief in support of defendant's second PCR petition and motion raising the following grounds for relief:

- (1) Because the petitioner was denied her constitutional right to the effective assistance of counsel (U.S. Const. (Amend. VI, XIV; N.J. Const., (1947), Art. 1, par 10)[)], and because she was prejudiced thereby, the court should grant her petition for [PCR]. In the alternative, because the petitioner has presented at least prima facie proof that she has been deprived of the effective assistance of counsel, the court should grant her an evidentiary hearing on this issue.
- (2) The petitioner's guilty plea was not knowing and voluntary and should be vacated.
- (3) The petitioner's points raised in her pro se petition and brief demonstrate that her petition should be granted; in the alternative, petitioner submits she has shown a prima facie basis for an evidentiary hearing.
- (4) Cumulative error deprived the petitioner due process of law and a fair trial, [U.S. Const.,] Amends. V, VI, XIV; [N.J. Const.] (1947) Art. I, Pars. 1, 9, 10.
- (5) The petitioner's motion for [PCR] should not be barred by procedural considerations.

On August 12, 2020, the second PCR court issued an oral opinion concluding defendant's claims were either barred by Rule 3:22-5 because they were previously adjudicated or did not constitute prima facie allegations of ineffective assistance. The court also denied defendant's motion to withdraw her guilty plea. The court entered orders memorializing its decisions.⁶

This appeal followed. Defendant makes the following arguments.

POINT I

MS. DORSETT IS ENTITLED TO AN EVIDENTIARY HEARING ON HER CLAIM THAT HER PLEA, PCR, AND APPELLATE PCR ATTORNEYS RENDERED INEFFECTIVE ASSISTANCE OF COUNSEL REGARDING HER CONSOLIDATION AND CONFLICT OF INTERESTS ISSUES, AND HER PLEA ATTORNEY RENDERED INEFFECTIVE ASSISTANCE AT SENTENCING.

POINT II

MS. DORSETT'S GUILTY PLEA MUST BE SET ASIDE OR THE MATTER REMANDED FOR AN EVIDENTIARY HEARING.

⁶ The court's order denying defendant's second PCR petition is a form order on which the judge did not check either "Granted," "Denied," or "Other." The parties, however, treat the order as one denying defendant's second PCR petition, which is consistent with the trial court's oral opinion.

II.

A.

"Post-conviction relief is New Jersey's analogue to the federal writ of habeas corpus." State v. Preciose, 129 N.J. 451, 459 (1992). Under Rule 3:22-2(a), a defendant is entitled to post-conviction relief when there was a "[s]ubstantial denial in the conviction proceedings of defendant's rights under the Constitution of the United States or the Constitution or laws of the State of New Jersey" "A petitioner must establish the right to such relief by a preponderance of the credible evidence." Preciose, 129 N.J. at 459. "To sustain that burden, specific facts" that "provide the court with an adequate basis on which to rest its decision" must be articulated. State v. Mitchell, 126 N.J. 565, 579 (1992).

A hearing on a PCR petition is required only when: (1) a defendant establishes a prima facie case in support of PCR; (2) the court determines that there are disputed issues of material fact that cannot be resolved by review of the existing record; and (3) the court determines that an evidentiary hearing is required to resolve the claims asserted. State v. Porter, 216 N.J. 343, 354 (2013) (citing R. 3:22-10(b)). "A prima facie case is established when a defendant demonstrates 'a reasonable likelihood that his or her claim, viewing the facts

alleged in the light most favorable to the defendant, will ultimately succeed on the merits.'" Id. at 355 (quoting R. 3:22-10(b)).

We review the legal conclusions of a PCR court de novo. State v. Harris, 181 N.J. 391, 419 (2004). Where an evidentiary hearing has not been held, it is within our authority "to conduct a de novo review of both the factual findings and legal conclusions of the PCR court" Id. at 421. We review a judge's decision to deny a PCR petition without an evidentiary hearing for abuse of discretion. State v. Brewster, 429 N.J. Super. 387, 401 (App. Div. 2013).

We have carefully reviewed the record and agree with the second PCR court's conclusion that several claims in defendant's claims are barred by Rule 3:22-5. The rule provides:

[a] prior adjudication upon the merits of any ground for relief is conclusive whether made in the proceedings resulting in the conviction or in any post-conviction proceeding brought pursuant to this rule . . . or in any appeal taken from such proceedings.

[R. 3:22-5.]

Defendant argues her trial counsel was ineffective for not adequately preserving her right to appeal the trial court's consolidation decision and for not telling her that the issue would be waived if she accepted the plea agreement. As the second PCR court aptly concluded, the record reveals that in her first

PCR petition defendant alleged that appellate counsel on her direct appeal was ineffective for not raising the trial court's consolidation decision. The first PCR court issued a thorough and well-reasoned oral opinion concluding that, had defendant's appellate counsel raised the consolidation issue on direct appeal, defendant would not have prevailed and, therefore, her plea would not have been vacated. Thus, the first PCR court found that defendant could not prove that she was harmed as a result of not having the consolidation argument presented on appeal. The validity of the trial court's consolidation decision, therefore, was adjudicated on the merits in defendant's first PCR petition. As a result, as the second PCR court concluded, this claim is barred by Rule 3:22-5.

The substantive bar in Rule 3:22-5 cannot be circumvented by defendant recasting her substantive arguments regarding the trial court's consolidation decision as a claim that her trial counsel was ineffective for not properly preserving that claim, State v. Moore, 273 N.J. Super. 118, 126 (App. Div. 1994).⁷ Nor can defendant escape the substantive bar by alleging that her PCR counsel was ineffective for not including the consolidation claims in his brief,

⁷ This claim is also barred by Rule 3:22-4(b)(2)(C), which provides that a second or subsequent PCR petition may allege only ineffective assistance of counsel on a first or subsequent PCR petition. The rule also bars defendant's claim that her trial counsel was ineffective at sentencing by not arguing for a prison term less than that recommended by the State.

given that defendant raised the consolidation claims in her brief before the first PCR court, which fully considered that claim.

We also agree with the second PCR court that plaintiff did not establish a prima facie case that her appellate PCR counsel was ineffective for not raising the consolidation issue. In light of the first PCR court's well-reasoned opinion rejecting defendant's challenge to the trial court's consolidation decision, with which we agree, defendant cannot establish that she suffered harm because appellate counsel did not raise that issue in her direct appeal. Had the issue been raised, defendant's guilty plea would not have been vacated.

We also agree with the second PCR court's rejection of defendant's claim that her first PCR counsel was ineffective for failing to argue that her trial counsel had an "extreme conflict of interest." After the State moved to disqualify Slott as defendant's counsel, she opposed the motion, testified under oath that it was her "unqualified wish" to retain Slott as her counsel, and waived any potential conflict of interest arising from Slott's relationship with her parent. She also stated under oath at her plea hearing that she was satisfied with the representation provided to her by Slott.

Seven years later, after Lesley had enjoyed the benefit of the lenient sentence she received as a result of defendant's guilty plea, defendant submitted

an affidavit claiming she wanted to terminate Slott, but was not permitted to do so by Lesley. Lesley, who testified in opposition to the State's disqualification motion that she had never formed an attorney-client relationship with Slott, submitted an affidavit claiming she had a longstanding attorney-client relationship with Slott and forced defendant to retain him as trial counsel against defendant's wishes.

As the second PCR court noted, defendant's claim is based on "purely self-serving certification[s] . . . that directly contradict[her] prior representations in an effort to create an issue of fact, which [her] previous testimony eliminated." Alfano v. Schaud, 429 N.J. Super. 469, 475 (App. Div. 2013) (quoting Shelcusky v. Garjulio, 343 N.J. Super. 504, 510 (App. Div. 2001), rev'd on other grounds, 172 N.J. 185 (2002)). There is nothing in the record suggesting that first PCR counsel was ineffective for not raising a claim that was directly contradicted by defendant's sworn testimony in the trial court.

We have carefully considered defendant's remaining PCR arguments and conclude they are without sufficient merit to warrant discussion in a written opinion. R. 2:11-3(e)(2).

B.

Defendant argues that the second PCR court erred by refusing to permit her to withdraw her plea. We disagree.

Where, as here, defendant has filed a motion for the withdrawal of her plea after sentencing, she must show that withdrawal is required "to correct a manifest injustice." R. 3:21-1. "[A] plea may only be set aside in the exercise of the court's discretion." State v. Slater, 198 N.J. 145, 156 (2009). In Slater, the Court identified four factors that the trial courts should consider when evaluating a motion to withdraw a guilty plea. Slater, 198 N.J. at 150. Those factors are: "(1) whether the defendant has asserted a colorable claim of innocence; (2) the nature and strength of defendant's reasons for withdrawal; (3) the existence of a plea bargain; and (4) whether withdrawal would result in unfair prejudice to the State or unfair advantage to the accused." Ibid. The court must consider and balance all factors. Id. at 162. "No factor is mandatory; if one is missing, that does not automatically disqualify or dictate relief." Ibid.

As noted above, defendant first moved to withdraw her guilty plea along with her first PCR petition. That motion was denied by the first PCR court. We affirmed the decision and the Supreme Court denied certification. In her second motion to withdraw her guilty plea, filed along with her second PCR petition, all but one of the arguments defendant asserts in support her motion were

previously rejected by the first PCR court. Under the law of the case doctrine, defendant is precluded from relitigating these arguments. State v. K.P.S., 221 N.J. 266, 276 (2015).

We agree with the second PCR court's conclusion that, with respect to the one issue that is not barred, defendant failed to show that withdrawal of the plea is required "to correct a manifest injustice." R. 3:21-1; Slater, 198 N.J. at 156. The only new argument raised by defendant is that her trial counsel was ineffective by giving her inaccurate advice about preserving her right to appeal the consolidation issue if she accepted the plea agreement. This is a claim that could have been raised in defendant's first motion to withdraw her guilty plea. She instead waited many years, until after her mother completed the lenient prison term she received in exchange for defendant's plea, to raise the claim. In that time Moore also completed his sentence. If defendant is permitted to withdraw her plea, those codefendants would no longer be subject to prosecution and have no motive to assist the State in its prosecution of defendant, putting the State at a significant disadvantage. In addition, defendant provided a detailed factual basis for her plea and had not presented a colorable claim of innocence. She offer no "specific, credible facts" demonstrating her innocence

of either the murder of her former spouse or the attempted murder of her former mother-in-law. Slater, 198 N.J. at 158.

Affirmed.

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



CLERK OF THE APPELLATE DIVISION