

**NOT FOR PUBLICATION WITHOUT THE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-1092-22**

STATE OF NEW JERSEY,

Plaintiff-Respondent,

v.

ADEMIR RAMALHO, a/k/a
ADEMIR ROCHA RAMALHO,
ADAMIR RAMALHO, and
ADEMIR R. RAMLHO,

Defendant-Appellant.

Submitted May 13, 2024 – Decided June 18, 2024

Before Judges Gilson and Berdote Byrne.

On appeal from the Superior Court of New Jersey, Law
Division, Union County, Indictment No. 06-11-1062.

Jennifer Nicole Sellitti, Public Defender, attorney for
appellant (Monique D. Moyse, Designated Counsel, on
the briefs).

William Anthony Daniel, Union County Prosecutor,
attorney for respondent (Milton Samuel Leibowitz,
Assistant Prosecutor, of counsel and on the brief).

PER CURIAM

Defendant Ademir Ramalho appeals from an August 25, 2022 order denying his petition for post-conviction relief (PCR). He argues that he was entitled to an evidentiary hearing on his claims that his trial counsel was ineffective in preparing for trial and pressured him into pleading guilty. He also claims that trial counsel was ineffective at sentencing in failing to better argue against aggravating factor nine and failing to argue for mitigating factors seven and twelve. Having conducted a de novo review of the record, we reject defendant's arguments and affirm.

In 2006, defendant was indicted for first-degree murder of his former wife, N.J.S.A. 2C:11-3(a)(1) and (2). Defendant was also indicted for two related weapons offenses. Following a trial, a jury convicted defendant of all charges. He was then sentenced to fifty years in prison with periods of parole ineligibility and parole supervision as prescribed by the No Early Release Act (NERA), N.J.S.A. 2C:43-7.2.

Defendant appealed, and we reversed his convictions and sentence because of an issue with the trial court's instruction and re-instruction on the murder charge. State v. Ramalho, No. A-2056-09 (App. Div. Aug. 20, 2013).

In January 2017, defendant pled guilty to an amended charge of first-degree aggravated manslaughter, N.J.S.A. 2C:11-4(a)(1). In pleading guilty, defendant admitted that in July 2006, he stabbed his former wife three times, causing her to die. Defendant also admitted that he knew there was a risk that his former wife would die because of his actions, and that he "recklessly caused her death under circumstances . . . manifesting extreme indifference to the value of her life." The State agreed to recommend a sentence of thirty years subject to NERA.

In March 2017, defendant was sentenced to twenty-seven years in prison subject to NERA. In imposing that sentence, the court found aggravating factors three, six, and nine applied. N.J.S.A. 2C:44-1(a)(3), (6), (9). The court also found mitigating factors four and twelve applied. N.J.S.A. 2C:44-1(b)(4), (12).

In 2020, defendant, representing himself, filed a PCR petition. After some procedural issues were addressed, defendant was assigned counsel, and he filed an amended petition with supporting briefs, an appendix, and a certification.

On July 22, 2022, the PCR judge, Judge Dara A. Govan, heard oral argument on defendant's petition. Thereafter, on August 25, 2022, Judge Govan denied defendant's petition in a written order and opinion.


On appeal to us, defendant articulates his arguments as follows:

MR. RAMALHO IS ENTITLED TO AN EVIDENTIARY HEARING ON HIS CLAIMS THAT HIS ATTORNEY RENDERED INEFFECTIVE ASSISTANCE OF COUNSEL PRETRIAL WHICH CAUSED HIM TO PLEAD GUILTY WHEN HE OTHERWISE WOULD HAVE PROCEEDED TO TRIAL, AND AT SENTENCING BY FAILING TO ADVOCATE ADEQUATELY AS TO AGGRAVATING AND MITIGATING FACTORS.

Defendant presented these same arguments to Judge Govan. Having reviewed the record de novo, we affirm substantially for the reasons expressed by Judge Govan in her thorough written opinion. As Judge Govan explained in detail, defendant failed to establish a prima facie showing of ineffective assistance of counsel because his claims were belied by the record of his plea, and he presented no specific facts supporting his claims of ineffective assistance of counsel. Judge Govan also properly rejected defendant's sentencing arguments as procedurally barred and because they lacked substantive merit.

Affirmed.

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


CLERK OF THE APPELLATE DIVISION