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**SUPERIOR COURT OF NEW JERSEY  
APPELLATE DIVISION  
DOCKET NO. A-0439-23**

STATE OF NEW JERSEY,

Plaintiff-Respondent,

v.

RONALD M. IGLESIAS,

Defendant-Appellant.

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Submitted January 7, 2025 – Decided April 3, 2025

Before Judges Sumners and Perez Friscia.

On appeal from the Superior Court of New Jersey, Law  
Division, Morris County, Indictment No. 14-04-0315.

Maynard Law Office, LLC, attorneys for appellant  
(James H. Maynard, of counsel and on the briefs).

Robert J. Carroll, Morris County Prosecutor, attorney  
for respondent (Tiffany M. Russo, Assistant  
Prosecutor, of counsel and on the brief).

PER CURIAM

Following our remand for an evidentiary hearing, State v. Iglesias, No. A-1727-19 (App. Div. June 28, 2021) (slip op. at 2), cert. denied, 249 N.J. 83 (2021), defendant Ronald Iglesias appeals the Law Division order denying his post-conviction relief (PCR) petition to vacate his guilty plea and allow him to apply to the pre-trial intervention (PTI) program. We affirm.

## I

We need not discuss the lengthy proceedings leading to this appeal as they are detailed in Iglesias and the PCR judge's written decision on remand. Rather, we recite only what is pertinent to resolve this appeal.

Defendant was charged in Morris County Indictment with second-degree sexual assault of a victim who is at least thirteen but younger than sixteen years old when the actor is four or more years older than the victim, N.J.S.A. 2C:14-2(c)(4); and third-degree endangering the welfare of a child, N.J.S.A. 2C:24-4(a). The charges arose from the twenty-four-year-old defendant engaging in sexual acts with a fourteen-year-old boy.

Defendant and the State reached a plea agreement wherein defendant pled guilty to an amended charge of fourth-degree criminal sexual contact, N.J.S.A. 2C:14-3(b). On May 23, 2014, per the plea agreement, defendant was sentenced to two years of probation, including 180 days in the county jail, and was also required to comply with registration obligations under Megan's Law, N.J.S.A.

2C:7-1 to -23. Defendant did not file a direct appeal and successfully completed probation without any violations.

On May 22, 2019, defendant filed a PCR petition alleging, among other things, his trial counsel was ineffective for advising him he was not eligible for PTI after initially telling him he may be eligible for admission. Iglesias, slip op. at 6-7. Defendant claimed that as a traveling musician, the Megan's Law requirements, which vary by state and country, have curbed his ability to travel and perform in areas outside of New Jersey.

The PCR judge denied the petition without an evidentiary hearing, finding that, based on "the nature of the original charges" and the "compelling need to prosecute offenders who target children," defendant would have been precluded from admission to PTI. The judge also determined that, if defendant's application to PTI was denied, his appeal would have ultimately been unsuccessful. Defendant appealed, and we reversed and remanded for an evidentiary hearing to determine "whether trial counsel affirmatively misadvised defendant that he was ineligible for the PTI program." Iglesias, slip op. at 14.

On remand, after conducting an evidentiary hearing wherein only trial counsel testified, the PCR judge entered an order accompanied by a written decision denying defendant's petition again.

On appeal, defendant argues:

POINT I

THE PCR COURT ABUSED ITS DISCRETION IN FINDING THAT TRIAL COUNSEL'S ERRONEOUS LEGAL ADVICE REGARDING PTI DID NOT CONSTITUTE MISTAKEN LEGAL ADVICE.

POINT II

THE PCR COURT DISREGARDED THE INSTRUCTIONS OF THE APPELLATE COURT BY SPECULATING ABOUT WHAT THE PROSECUTOR WOULD HAVE DONE IF THE DEFENDANT HAD APPLIED TO PTI AND APPEALED ANY PTI DENIAL.

A. The PCR [C]ourt's Decision Was Based on Speculation About What an Assistant Prosecutor Might Have Done a Decade Ago If the Defendant Had Applied to PTI.

B. The PCR Court Abused Its Discretion by Relying on the State's False Timeline Regarding PTI and the State's Plea Offer.

C. The PCR [C]ourt's Decision Rested on Speculation About the PTI Application [Trial Counsel] Could Have Presented If He Hadn't Mistakenly Believed No Application Was Possible.

POINT III

THE PCR COURT ABUSED ITS DISCRETION IN HOLDING THAT PRIOR DEFENSE COUNSEL MADE A STRATEGIC DECISION TO PURSUE PLEA NEGOTIATIONS RATHER THAN PURSUE PTI.

A. Decisions Grounded in Misunderstanding of the Law Can Never Be Strategic Choices.

B. The Decision Whether to Pursue a PTI Application or an Appeal of a PTI Denial, Belongs to the Defendant, Not Defense Counsel.

POINT IV

THE PCR COURT'S REMAINING BASES FOR DENYING DEFENDANT'S PCR PETITION WERE UNSUPPORTED IN THE RECORD, RENDERING THE DENIAL AN ABUSE OF DISCRETION.

II

This appeal turns on trial counsel's evidentiary hearing testimony. The following direct examination occurred:

[PCR Counsel]: What did you tell [defendant] about PTI?

[Trial counsel]: Well, I gave him the background of what happens in PTI. . . . [W]e had a discussion about PTI. And as I recall today, and it's been some years ago, at that time the policy was if it was a sex crime or if it was a second-degree crime, that you would have to have the consent of the prosecutor to apply.

. . . .

[Trial counsel]: We did not apply at [the] time of the intake, and we left it that I would contact the prosecutor. . . . I contacted [the prosecutor] and asked him whether or not he would consent to the application, and he advised me that he would not consent, that PTI was not going to be something that they would consider, and that the family was not on board with PTI. . . . So, I reported back to [defendant] that the

prosecutor was not going to agree to PTI for him in the case and at that point we did other things.

. . . .

[PCR counsel]: So, you told [defendant] that he could not apply to PTI because the prosecutor would not give a letter of consent; is that correct?

[Trial counsel]: In essence, that's correct. . . . I certainly told him that the prosecutor was not consenting and without his consent, we were not getting PTI.

The PCR court sought further clarification, as follows:

[The Court]: With regard to what you specifically told the defendant regarding PTI, is it your recollection you told him he was not eligible for PTI, or did you tell him that based on your discussions that he was unlikely to be accepted into the PTI program? Do you understand the difference in —

[Trial counsel]: . . . I do understand the difference and I understand the question. . . . I can't say, as I am sitting here today, exactly what I said to him.

I do think that what I said to him was without the prosecutor's consent to your application, Criminal Assignment is not going to take the [PTI] application and without the prosecutor's consent, as a practical matter, you are not getting PTI on a second-degree crime.

[The Court]: Right.

[Trial Counsel]: So, on a second-degree sexual assault, I would have explained that without the prosecutor being on board, which would normally mean that the victim wasn't on board, because in a few cases that someone got PTI on the sex crime, the victim was

(indiscernible). The prosecutor was never giving PTI on something like that. So, I think my advice to him was that, you know, without the prosecutor going along with this, it's not happening. So, we have to do something else.

....

[The Court]: All right, and did you relate to the defendant, [] the sum and substance of your conversation with the prosecutor?

[Trial Counsel]: I am sure I did, but it was not much of a conversation, because I would have said, you know, I am sorry, but I spoke to the prosecutor and he is not going to agree to your application, and he's not going — or he's not going to consent to your application, and he's not going to agree to PTI, so we have to take a different approach to the case.

THE COURT: All right. And is that ultimately what you did with regard to representation of [defendant]?

THE WITNESS: Yes. I was trying to work out the best possible plea for him. My concern, obviously, was the second-degree crime, getting it down to a fourth degree, which also limited community supervision.

Defendant argues trial counsel's testimony proves that counsel was mistaken about defendant's right to apply to PTI, thereby providing ineffective assistance of counsel. Specifically, defendant notes that the PCR court correctly found the then-applicable Rule 3:28 expressly stated "[d]efendant could also apply to PTI on a second-degree offense without the prosecutor's consent." See Guideline for Operation of Pretrial Intervention in New Jersey, Pressler &

Verniero, Current N.J. Court Rules, cmt. on Guideline 3(i) following R. 3:28 at 1128-29 (2013). Indeed, the rule provides:

It is to be emphasized that while all persons are eligible for pretrial intervention programs, those charged with offenses encompassed with certain enumerated categories must bear the burden of presenting compelling facts and materials justifying admission.

First and second degree crimes . . . are specific categories of offense that establish a rebuttable presumption against admission of defendants into a PTI program.

. . . .

When an application is rejected because the defendant is charged with a crime of the . . . second degree . . . and the prosecutor refuses to join affirmatively in the filing of an application . . . such refusal should create a rebuttable presumption against enrollment.

[Ibid. (emphasis added).]

Defendant contends the PCR court abused its discretion in finding there was "no credible evidence in the record to support defendant's current assertion that [trial counsel] misunderstood the law or advised defendant he could not even apply to PTI without consent of the prosecutor." The PCR court thus contradicted its earlier statement that "[d]efendant had the right to apply to PTI notwithstanding the prosecutor's denial of consent, and to appeal to the court when an application is 'rejected because the prosecutor refuses to consent to the filing of the application.'" Defendant maintains trial counsel incorrectly testified



that he "could not apply to PTI without the consent of the prosecutor because he was charged with a second[-]degree offense." This, according to defendant, "is the functional equivalent of telling him that he is ineligible for PTI,[] and is expressly advising [him] that he cannot apply for PTI."

We conclude defendant's arguments are not supported by trial counsel's evidentiary hearing testimony. Trial counsel's advice to defendant was not deficient under the first prong of the two-prong PCR test set forth in Strickland v. Washington, 466 U.S. 668, 687 (1984) and adopted in State v. Fritz, 105 N.J. 42, 58 (1987), that counsel provided ineffective assistance.

We agree with the PCR court's determination as expressed in its thoughtful eighteen-page written decision that trial counsel did not misadvise defendant by telling him that he was categorically ineligible for PTI. As evidenced in counsel's testimony, the court found that counsel: (1) "advised defendant of PTI at their initial meeting"; (2) "and again when they met with the intake officer following court"; and (3) "related to defendant that he spoke with the prosecutor about PTI, but the prosecutor refused to consent." Thus, it refuted defendant's contention that counsel "advised [him] that he was ineligible for PTI due to the nature of the crime," and instead concluded that counsel "conscientiously pursued PTI as an option for defendant and, when that avenue was foreclosed, negotiated an advantageous plea for defendant given the nature

of the charges." (Emphasis added). As such, the PCR court reasoned counsel would not have sought out the prosecutor's consent if he believed his client was categorically ineligible from PTI.

The PCR court correctly dismissed defendant's claim he was misadvised of his right to apply to PTI and challenge the prosecutor's objection to PTI because, in its assessment, the record lacked credible evidence that "[counsel] misunderstood the law or advised defendant he could not even apply to PTI without consent of the prosecutor." Moreover, the court astutely noted defendant did not testify at the hearing, thereby offering no contrary evidence to counsel's testimony and assert that he originally desired to apply to PTI despite the prosecutor's objection.

We also agree with the PCR court's determination that counsel's representation was a reasonable strategic decision given the improbable success of a PTI application. Citing to Strickland, the court noted that "defendant must establish that trial counsel's actions did not equate to 'sound trial strategy.'" 466 U.S. at 689 (quoting Michel v. Louisiana, 350 U.S. 91, 101 (1955)). (Da19). It held defendant fell short of this burden as indicated "by the prosecutor, [that] a PTI application and appeal likely would have resulted in the State seeking an indictment, which in turn may have resulted in an escalated plea offer." "[I]f counsel makes a thorough investigation of the law and facts and considers all

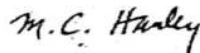
likely options, counsel's trial strategy is 'virtually unchallengeable.'" State v. Chew, 179 N.J. 186, 217 (2004) (citation omitted). In the PCR court's perspective, counsel exhausted all reasonable remedies with "reasonable professional judgment" and "sound trial strategy" by negotiating an advantageous plea rather than pursuing PTI.

Consequently, we discern the PCR court did not abuse its discretion in finding that trial counsel's testimony does not indicate he misadvised defendant concerning his right to apply to PTI. The court's findings "are supported by sufficient credible evidence in the record." See State v. Nash, 212 N.J. 518, 540 (2013)

Given our conclusion that defendant did not establish trial counsel rendered ineffective assistance, we need not determine whether he satisfied Strickland's second prong — that he was prejudiced by counsel's ineffectiveness. See Strickland, 466 U.S. at 700; Fritz, 105 N.J. at 58.

Affirmed.

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



Clerk of the Appellate Division