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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-4233-15T1

STATE OF NEW JERSEY,

Plaintiff-Respondent,

v.

MARK S. WILLIAMS,

Defendant-Appellant.

Submitted March 14, 2018 – Decided April 10, 2018

Before Judges Fuentes and Manahan.

On appeal from Superior Court of New Jersey,
Law Division, Middlesex County, Indictment No.
99-02-0120.

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

Andrew C. Carey, Middlesex County Prosecutor,
attorney for respondent (Joie D. Piderit,
Assistant Prosecutor, of counsel and on the
brief).

PER CURIAM

Defendant Mark S. Williams appeals from a February 12, 2016
order denying his motion for reconsideration and his petition for

post-conviction relief (PCR) after oral argument and an evidentiary hearing. We affirm.

Following a jury trial, defendant was convicted of murder, N.J.S.A. 2C:11-3(a)(1), (2); and possession of a weapon for an unlawful purpose, N.J.S.A. 2C:39-4(a). The court sentenced defendant to a life term of imprisonment with a thirty-year mandatory minimum period of parole ineligibility and a concurrent ten-year term of imprisonment with a five-year mandatory minimum period of parole ineligibility. The court also granted the State's motion to dismiss a violation of probation and imposed the appropriate fines and fees.

Defendant appealed. We affirmed the convictions and sentence. The New Jersey Supreme Court denied defendant's petition for certification. State v. Williams, No. A-1526-02 (App. Div. Oct. 17, 2003), certif. denied, 180 N.J. 454 (2004).

The essential procedural history is easily summarized. In October 2007, defendant filed a petition for PCR. In November 2010, following a preliminary hearing and an evidentiary hearing, the court issued a written decision outlining its reasons for denying the PCR.

On December 17, 2010, defendant filed a motion for reconsideration. Following arguments in August 2011, the court

denied defendant's motion for reconsideration and petition for PCR in a written decision.

In January 2014, defendant filed a motion for a limited remand with the Appellate Division, which we granted. Defendant then filed a motion for a new trial, pursuant to Rule 3:20-1, based upon newly discovered evidence. After oral argument, the court denied defendant's request for a new trial but granted an evidentiary hearing. The hearing was conducted to address the issue of cellular phone records which defendant argued were exculpatory and should have been presented to the jury. The hearing included testimony from defendant, his trial counsel, his wife and his mother-in-law. In August 2015, after consideration of the testimony and the arguments of counsel, the court found that defendant's claims lacked credibility. Predicated upon that finding, the court denied the petition for PCR.

Defendant filed a motion for reconsideration. After oral argument, the court denied the motion. Defendant filed a notice of appeal from the denial of the motion for reconsideration and the petition for PCR.

Defendant raises the following issues on appeal:

POINT I

MR. WILLIAMS IS ENTITLED TO A HEARING ON HIS CLAIMS OF INEFFECTIVE ASSISTANCE OF COUNSEL.

(A) TRIAL COUNSEL FAILED TO IDENTIFY AND FULLY EXPOSE THE BIAS OF SHAGUYE COLBERT.

(B) TRIAL COUNSEL FAILED TO ELICIT EVIDENCE FROM JASMINE AND ANGELA WILLIAMS THAT, CONTRARY TO YARBOROUGH'S DAMAGING TESTIMONY, YARBOROUGH HAD NOT BEEN WITH MARK WILLIAMS ON THE DAY OF THE SHOOTING; FAILED TO CALL ALIBI WITNESS ROXANNE HARRY; AND FAILED TO CALL WITNESSES WHO WOULD HAVE CALLED INTO DOUBT THAT THE MAROON CAR SEEN AT THE TIME OF THE SHOOTING WAS VAUGHN'S CAR WHICH MR. WILLIAMS HAD BORROWED.

1. Trial counsel failed to elicit crucial testimony from Angela and Jasmine Williams due to a lack of investigation.

2. Counsel failed to interview alibi witness Roxanne Harry.

3. Counsel failed to present witnesses who would have challenged the [S]tate's evidence concerning the maroon car.

(C) TRIAL COUNSEL FAILED TO REQUEST VOIR DIRE TO ASSURE THAT THE DELIBERATING JURY HAD NOT BEEN ADVERSELY INFLUENCED.

POINT II

TRIAL COUNSEL RENDERED INEFFECTIVE ASSISTANCE BY FAILING TO IDENTIFY AND FULLY EXPOSE THE MOTIVATION FOR THADDEUS YARBOROUGH TO TESTIFY

UNTRUTHFULLY AND FAILING TO INVESTIGATE HIS ALIBI DEFENSE.

(A) TRIAL COUNSEL RENDERED INEFFECTIVE ASSISTANCE BY FAILING TO IDENTIFY AND FULLY EXPOSE THE MOTIVATION FOR THADDEUS YARBOROUGH TO TESTIFY UNTRUTHFULLY.

(B) TRIAL COUNSEL RENDERED INEFFECTIVE ASSISTANCE BY FAILING TO INVESTIGATE HIS ALIBI DEFENSE.

POINT III

MR. WILLIAMS IS ENTITLED TO A REMAND BECAUSE THE PCR COURT DID NOT ADDRESS ALL OF HIS CLAIMS ON THE MERITS.

POINT IV

THE PCR COURT ERRED BY FAILING TO GRANT MR. WILLIAMS' MOTION FOR RECONSIDERATION AND FINDING HIS MOTION UNTIMELY.

(A) THE DENIAL OF THE MOTION FOR RECONSIDERATION ON THE MERITS WAS IN ERROR.

(B) THE DENIAL OF THE MOTION AS UNTIMELY WAS IN ERROR.

POINT V

ALL CLAIMS IN MR. WILLIAMS' PETITIONS AND BRIEFS ARE INCORPORATED IN THIS APPEAL.

Having considered these arguments in light of the record and our standard of review, we affirm the denial of the PCR for the reasons set forth in Judge Michael A. Toto's comprehensive and

well-reasoned memorandum of opinion attached to the August 25, 2015 order.

Finally, we hold that defendant's argument the judge erred in not granting the motion for reconsideration lacks sufficient merit to warrant discussion in a written opinion. R. 2:11-3(e)(2).

Affirmed.

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



CLERK OF THE APPELLATE DIVISION