

**NOT FOR PUBLICATION WITHOUT THE  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-5139-15T4

STATE OF NEW JERSEY,

Plaintiff-Respondent,

v.

SHAWN DESHIELDS,

Defendant-Appellant.

---

Submitted December 19, 2017 – Decided January 5, 2018

Before Judges Fisher and Fasciale.

On appeal from Superior Court of New Jersey,  
Law Division, Camden County, Indictment No.  
94-12-3082.

Joseph E. Krakora, Public Defender, attorney  
for appellant (Steven M. Gilson, Designated  
Counsel, on the brief).

Mary Eva Colalillo, Camden County Prosecutor,  
attorney for respondent (Patrick D. Isbill,  
Assistant Prosecutor, of counsel and on the  
brief).

PER CURIAM

Defendant appeals from a March 11, 2016 order denying his  
petition for post-conviction relief (PCR). Defendant maintains

he received ineffective assistance from his trial counsel. Judge Steven J. Polansky entered the order and rendered a thirty-page written decision.

On appeal, defendant argues:

THIS MATTER MUST BE REMANDED FOR AN EVIDENTIARY HEARING BECAUSE DEFENDANT ESTABLISHED A PRIMA FACIE CASE OF TRIAL COUNSEL'S INEFFECTIVENESS FOR FAILING TO INVESTIGATE THE BACKGROUND OF JOSE PEREZ, A GOVERNMENT INFORMANT, WHICH THE STATE SUPPRESSED.

We conclude that defendant's argument is "without sufficient merit to warrant discussion in a written opinion." R. 2:11-3(e)(2). We affirm substantially for the reasons expressed by the judge, and add the following brief remarks.

A defendant is entitled to an evidentiary hearing only when he or she "has presented a prima facie [case] in support of [PCR]," State v. Marshall, 148 N.J. 89, 158 (1997) (first alteration in original) (quoting State v. Preciose, 129 N.J. 451, 462 (1992)), meaning that a "defendant must demonstrate a reasonable likelihood that his or her claim will ultimately succeed on the merits," ibid. For defendant to obtain relief based on ineffective assistance grounds, he 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 v. Washington, 466 U.S. 668, 687 (1984); accord State v. Fritz,

105 N.J. 42, 58 (1987). In addition to failing to satisfy prong one, the judge correctly stated:

Defendant first provides no affidavit or certification in support of his contention that an investigation by counsel would have turned up useful background information on Jose Perez. . . . Defendant has failed to present evidence that witness Jose Perez was a government informant at the time of his trial. Additionally, the testimony of this witness did not connect [defendant] to the crime. Most importantly, he has further failed to present any evidence that the testimony of Mr. Perez or any information that might have been discovered would have substantially impacted the decision of the trial court or jury. . . .

. . . .

Defendant presents absolutely no evidence which would allow the [c]ourt to determine what additional investigation . . . would have disclosed.

Thus, defendant fails to demonstrate a reasonable likelihood of success on the merits, and he was not entitled to an evidentiary hearing.

Affirmed.

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



CLERK OF THE APPELLATE DIVISION