

**NOT FOR PUBLICATION WITHOUT THE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-0878-21**

STATE OF NEW JERSEY,

Plaintiff-Respondent,

v.

TIMOTHY M. CHAMBERS,

Defendant-Appellant.

Submitted January 24, 2024 – Decided May 24, 2024

Before Judges Accurso and Walcott-Henderson.

On appeal from the Superior Court of New Jersey,
Law Division, Union County, Indictment No. 15-09-
0630.

Joseph E. Krakora, Public Defender, attorney for
appellant (Louis H. Miron, Designated Counsel, on the
brief).

William C. Daniel, Union County Prosecutor, attorney
for respondent (Michelle C. Buckley, Assistant
Prosecutor, of counsel and on the brief).

PER CURIAM

Defendant appeals from an August 31, 2021 order denying his petition for post-conviction relief (PCR) based on ineffective assistance of trial and appellate counsel, without an evidentiary hearing. Because the trial judge correctly determined the evidence presented was insufficient to sustain defendant's burden, we affirm.

A jury convicted defendant Timothy Chambers of first-degree robbery and the court imposed a sentence of life in prison on the State's motion for a mandatory life term. On direct appeal, we affirmed defendant's conviction and sentence, State v. Chambers, No. A-3785-17 (App. Div. July 14, 2020) and the Supreme Court denied his petition for certification. State v. Chambers, 244 N.J. 283 (2020). Defendant subsequently filed a PCR petition and following oral argument, Judge Robert Kirsch issued a comprehensive and well-reasoned written opinion denying the petition without an evidentiary hearing.

The State presented evidence at trial that defendant and another man robbed the manager of a car wash at gun point. The victim testified defendant struck him with the gun during a struggle over a bag of quarters. The entire assault was captured on video surveillance. Approximately one month later, a police officer stopped a dark-colored SUV matching the description of the vehicle used in the car wash robbery and arrested defendant, for possession of

drug paraphernalia. A consent search of the SUV resulted in the recovery of a brown Sean John jacket and black and brown Polo boots, which the State used at trial to tie defendant to the perpetrator of the robbery.

In his PCR petition, defendant alleged his trial counsel was ineffective for failing to move for a speedy trial and effectively cross-examining the State's witnesses. He further argued trial counsel's opening statement prejudiced his right to a fair trial, and appellate counsel was ineffective for failing to raise issues set forth in his supporting pro se brief, including appellate counsel's failure to raise defendant's speedy trial claim and that the State withheld allegedly exculpatory evidence from the jury.

Judge Robert Kirsch issued a comprehensive and well-reasoned written opinion dismissing all of defendant's PCR claims for lack of merit. As to defendant's claim trial and appellate counsel were ineffective for failing to file a motion for violation of his right to a speedy trial, the court discussed the timeline of relevant court events between the date of defendant's arrest and commencement of jury selection, and determined "the overwhelming majority of the time of which [defendant] complains, he was not confined or in any pretrial custodial setting." Thus, the court concluded that even if trial counsel's performance had been deficient for failing to file a speedy trial motion, counsel's

allegedly deficient performance would not have been prejudicial because the motion would have been unsuccessful at trial and on appeal.

As to defendant's claims trial counsel failed to subject witnesses to meaningful cross-examination, the court determined defendant's argument was made without specific citations to the trial transcript. Nevertheless, the court determined trial counsel cross-examined the only witness competent to testify regarding defendant's identity in an attempt to "call into question the reliability of the identification." And, concluded that trial counsel's cross-examination "does not rise to the level of deficient performance required under [Strickland v. Washington, 466 U.S. 668 (1984)], or a presumptively prejudicial deprivation of [defendant]'s constitutional right to confrontation."

The court rejected defendant's claim the State failed to disclose exculpatory evidence to the jury that the SUV in which he was found was not the same one used in the robbery. The court noted the State "never presented evidence or argued that [defendant]'s SUV was used in the subject robbery" and only referenced the SUV in connection to the "motor vehicle stop leading to [defendant]'s arrest and the discovery of clothing he wore during the robbery." In sum, the PCR court concluded "all of [defendant]'s ineffective assistance of counsel claims fail both prongs of [Strickland] on the merits."

Defendant raises the following arguments for our consideration on appeal:

POINT I

THE PCR COURT ERRED IN RULING THAT [DEFENDANT] RECEIVED THE EFFECTIVE ASSISTANCE OF COMPETENT TRIAL COUNSEL WHERE COUNSEL FAILED TO MOVE FOR A SPEEDY TRIAL AND FAILED TO SUBJECT THE STATE'S WITNESSES TO MEANINGFUL CROSS-EXAMINATION.

POINT II

APPELLATE COUNSEL WAS CONSTITUTIONALLY INEFFECTIVE BECAUSE COUNSEL FAILED TO RAISE ARGUMENTS CONCERNING THE VIOLATION OF DEFENDANT'S RIGHT TO A SPEEDY TRIAL AND THE STATE'S FAILURE TO DISCLOSE THE FACT THAT THE VEHICLE IN WHICH DEFENDANT WAS ARRESTED WAS NOT INVOLVED IN THE ROBBERY OF THE CAR WASH.

POINT III


THE PCR COURT ABUSED ITS DISCRETION BY FAILING TO CONDUCT AN EVIDENTIARY HEARING TO ADDRESS THE CLAIMS RAISED BY DEFENDANT.

Our review of the record convinces us Judge Kirsch addressed all of defendant's claims and appropriately denied his petition. We agree defendant failed to demonstrate the performance of his trial or his appellate counsel was

substandard or that, but for any of the alleged errors, the result would have been different. Strickland v. Washington, 466 U.S. at 687-88, 694. Accordingly, we affirm, substantially for the reasons expressed in Judge Kirsch's thorough and well-reasoned thirty-nine page written opinion. We have nothing to add to his comprehensive analysis of the issues.

Affirmed.

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



CLERK OF THE APPELLATE DIVISION