

**NOT FOR PUBLICATION WITHOUT THE  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-2539-22**

STATE OF NEW JERSEY,

Plaintiff-Respondent,

v.

WALI HARRIS,

Defendant-Appellant.

---

Submitted May 21, 2024 – Decided June 4, 2024

Before Judges Enright and Whipple.

On appeal from the Superior Court of New Jersey, Law Division, Atlantic County, Indictment Nos. 18-03-0420 and 16-11-2567 and Accusation No. 17-03-0548.

Jennifer Nicole Sellitti, Public Defender, attorney for appellant (Lee March Grayson, Designated Counsel, on the brief).

William E. Reynolds, Atlantic County Prosecutor, attorney for respondent (Kristen Pulkstenis, Assistant Prosecutor, of counsel and on the brief).

PER CURIAM

Defendant Wali Harris appeals from the January 31, 2023 order denying his petition for post-conviction relief (PCR) contending he established a prima facie case of ineffective assistance of counsel requiring an evidentiary hearing. We disagree and affirm for the reasons expressed by Judge W. Todd Miller in his twenty-five-page, well-reasoned written decision of the same date.

Defendant raises the following arguments on appeal:

**POINT I:**

**THE PCR COURT ERRED IN DENYING THE DEFENDANT'S PETITION FOR [PCR] BASED ON INEFFECTIVE ASSISTANCE OF COUNSEL WITHOUT AFFORDING HIM A FULL EVIDENTIARY HEARING THAT INCLUDED TESTIMONY FROM HIS DEFENSE ATTORNEYS AND OTHER WITNESSES.**

**A. Failure of Defense Attorneys To Investigate and Present Alibi Defense.**

**B. Failure of Defense Attorneys To Investigate and Present Third-Party Defense.**

**POINT II:**

**THE PCR COURT ERRED BY NOT CONDUCTING A FULL EVIDENTIARY HEARING.**

On January 10, 2018, a Gino's Pizza delivery driver was assaulted and robbed at gunpoint during a delivery to an Atlantic City address. When two Atlantic City Police Detectives responded to Gino's Pizza, the delivery driver

described searching for the address given on the order, only to find that the address did not correspond to a real location. The driver called the number on the order, and two males approached his vehicle, pointed firearms at him, and demanded money. He was forced to exit the vehicle, was patted down and examined for money, and was struck in the face.

The two men took a bag containing cash and a cell phone, then fled. The driver described one suspect as an approximately 28-year-old skinny Black male, about 5'8" tall, with a black and white beard two inches below his chin, and wearing all black, who accosted him with a gun from the passenger side of his vehicle. The driver described the second suspect as a Black male, approximately 5'7", with no facial hair, and dressed in all black, who approached the driver's side of the vehicle with a firearm.

Footage from a nearby surveillance camera showed two men, who fit these descriptions, running into defendant's home and then leaving a short time later, having changed clothing. An officer arrested an individual fitting one of the descriptions nearby: M.H., the juvenile brother of defendant. During a consensual search of defendant's home, officers located the Gino's Pizza receipt with the fictitious address on it (albeit not in defendant's personal bedroom).

Defendant was arrested and later indicted for various first- and second-degree robbery, assault, and weapons offenses.

On October 25, 2018, defendant pled guilty to first-degree robbery and was sentenced in accordance with a plea agreement—which sentence we affirmed on March 9, 2020. State v. Harris, No. A-3534-18 (App. Div. Mar. 9, 2020).

In April 2021, defendant filed a timely pro se petition for PCR. Although no issues were raised in defendant's pro se petition, court-assigned PCR counsel supplemented his petition with defendant's certification and raised two legal issues relating to alibi and third-party guilt defenses. Oral argument was heard before Judge Miller, who denied defendant's petition after thoroughly discussing and rejecting the alibi and third-party guilt defense arguments raised.


Specifically, the PCR judge addressed trial counsel's purported failure to present an alibi witness, rejecting any assertion it was ineffective assistance. In reaching this decision, Judge Miller found defendant's certification lacked credible personal knowledge and contradicted the record of the proceedings at the trial level, which instead demonstrated counsel had considered alibi witnesses but dismissed that defense as not a worthwhile strategy. The PCR judge also rejected defendant's assertion of ineffectiveness via counsel's failure

to pursue a defense of third-party guilt, as belied by the record that demonstrated such a course would not have been sound legal strategy. Finally, Judge Miller concluded defendant's petition did not meet the standard necessary to trigger the need for an evidentiary hearing.

Defendant appeals, reprising the very arguments he made to the trial court. Having reviewed the record, we conclude—as Judge Miller did—that none of defendant's claims has any merit. See R. 2:11-3(e)(2). We have nothing to add to Judge Miller's thorough and thoughtful opinion.

Affirmed.

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



CLERK OF THE APPELLATE DIVISION