

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

878

KA 24-00795

PRESENT: WHALEN, P.J., SMITH, GREENWOOD, DELCONTE, AND HANNAH, JJ.

THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

MEMORANDUM AND ORDER

KEITH LAWSON, DEFENDANT-APPELLANT.

CAMBARERI & BRENNECK, SYRACUSE (MELISSA K. SWARTZ OF COUNSEL), FOR
DEFENDANT-APPELLANT.

WILLIAM J. FITZPATRICK, DISTRICT ATTORNEY, SYRACUSE (DAVID D. BASSETT
OF COUNSEL), FOR RESPONDENT.

Appeal, by permission of a Justice of the Appellate Division of the Supreme Court in the Fourth Judicial Department, from an order of the Onondaga County Court (Theodore H. Limpert, J.), dated April 12, 2024. The order denied the motion of defendant pursuant to CPL 440.10 to vacate a judgment of conviction.

It is hereby ORDERED that the order so appealed from is unanimously affirmed.

Memorandum: Defendant appeals, by permission of this Court, from an order that denied without a hearing his CPL 440.10 motion to vacate the judgment convicting him, upon his plea of guilty, of criminal possession of a controlled substance in the second degree (Penal Law § 220.18 [3]) and criminal possession of a weapon in the second degree (§ 265.03 [3]). Defendant's conviction stems from a search of his residence and a moped found in a shared backyard; handguns and methamphetamine were found in a locked compartment of the moped. We affirm.

When a CPL 440.10 motion is made, a hearing to develop additional background facts is not "invariably necessary" (*People v Satterfield*, 66 NY2d 796, 799 [1985]; see *People v Lostumbo*, 175 AD3d 844, 846 [4th Dept 2019], lv denied 34 NY3d 1017 [2019]; see generally CPL 440.30 [5]). To be entitled to a hearing, a defendant "must show that the nonrecord facts sought to be established [at a hearing] are material and would entitle [them] to relief" (*Satterfield*, 66 NY2d at 799; see *People v Carota*, 235 AD3d 1069, 1071 [3d Dept 2025], lv denied 43 NY3d 962 [2025]; *People v Streeter*, 194 AD3d 1407, 1408 [4th Dept 2021], lv denied 37 NY3d 974 [2021], reconsideration denied 37 NY3d 1029 [2021]). We review a court's summary denial of a CPL 440.10 motion for an abuse of discretion (see *People v Fredericks*, 43 NY3d 551, 561 [2025], rearg denied 43 NY3d 1014 [2025]; *Carota*, 235 AD3d at 1071;

People v Maull, 218 AD3d 1236, 1240 [4th Dept 2023])).

We conclude that County Court did not abuse its discretion in denying the motion without a hearing. Defendant moved to vacate the judgment due to purported ineffective assistance of counsel. Defendant first alleged that defense counsel was ineffective in failing to investigate a potential defense, i.e., that other people had access to the moped in the shared backyard. But as the court noted, the guns and drugs were found in a *locked* compartment of the moped, and defendant had the key in his possession when the search warrant was executed. Thus, there was no viable defense against defendant's possession of the guns and drugs recovered in this case (see *People v James*, 215 AD3d 1176, 1178 [3d Dept 2023], *lv denied* 40 NY3d 935 [2023]; see generally *People v Caban*, 5 NY3d 143, 152 [2005])).

Defendant next alleged that defense counsel was ineffective in providing him with inaccurate information concerning the evidence against him, i.e., that his fingerprints were found on items seized from his apartment and the moped. Defendant admits, however, that a DNA analysis showed a mixture of DNA from four individuals on a weapon recovered from the moped and that he was one of the contributors. Even assuming, arguendo, that defense counsel misrepresented the nature of the forensic evidence against defendant, we conclude that such error did not constitute a denial of meaningful representation under the facts of this case. "In the context of a guilty plea, a defendant has been afforded meaningful representation when [they] receive[] an advantageous plea and nothing in the record casts doubt on the apparent effectiveness of counsel" (*People v Cafarelli*, 193 AD3d 1350, 1351 [4th Dept 2021], *lv denied* 37 NY3d 990 [2021] [internal quotation marks omitted]; see *People v Johnson*, 229 AD3d 1300, 1302 [4th Dept 2024], *lv denied* 42 NY3d 1020 [2024])). Here, there was copious evidence incriminating defendant, and defense counsel negotiated a favorable plea agreement for defendant. Defense counsel's alleged shortcomings did not rise to the level of ineffective assistance, and the court therefore did not abuse its discretion in denying the motion without a hearing (see *Streeter*, 194 AD3d at 1408-1409; see also *People v Viera*, 200 AD3d 726, 727 [2d Dept 2021], *lv denied* 37 NY3d 1165 [2022]; see generally *Satterfield*, 66 NY2d at 799-800)).