

SYLLABUS

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State v. Jamar J. Myers (A-4-25) (090743)

Argued March 17, 2026 -- Decided August 17, 2026

JUSTICE WAINER APTER, writing for a unanimous Court.

In this appeal, the Court considers whether defendant Jamar J. Myers must be permitted to withdraw his guilty plea to felony murder.

In July 2011, defendant, Peter Nyema, and Tyrone Miller were charged under Indictment 11-08-0833 with armed robbery and eleven other offenses related to the May 6, 2011 robbery of a 7-Eleven. Following the robbery, the police stopped and searched the car Miller was driving; defendant and Nyema were passengers. The officers seized dark clothing, a handgun, and nearly \$600 in cash. Defendant moved to suppress that evidence; the motion court denied suppression except as to what was found under the hood and in the trunk of the car, which included the handgun.

In February 2014, defendant was charged under Superseding Indictment 14-02-0232 with murder, felony murder, and other charges related to the April 29, 2011 attempted robbery at Vizzoni’s Pharmacy and homicide at Brunswick Avenue Pharmacy (the Pharmacies case). The State moved under N.J.R.E. 404(b) to introduce as evidence in the Pharmacies case surveillance footage from the 7-Eleven and the clothing and money seized after the robbery. The judge granted that motion.

On the morning of jury selection in the Pharmacies case, the judge discussed the State’s final plea offer with defendant, defense counsel, and the State. The judge stated that, “even with a guilty plea, that doesn’t prevent you from filing an appeal and if an appellate court judge finds that I committed an error, that I was wrong in my 404(b) decisions or anything else, your guilty plea could be reversed.”

The parties presented a single signed plea agreement, in which defendant agreed to plead guilty to felony murder (from the Pharmacies case indictment); armed robbery (from the 7-Eleven indictment), and three violations of probation. Under Question 4(e) of the signed plea agreement, “Do you further understand that by pleading guilty you are waiving your right to appeal the denial of all other pretrial motions except the following,” the parties circled “Yes” and handwrote: “404 B decision in 14-02-232; motion to suppress physical evidence in 11-08-833.”

Defense counsel highlighted that defendant was “reserving his right to appeal the 404(b) decision in the homicide case and the motion to suppress physical evidence in the . . . armed robbery case.”

Defendant appealed, seeking reversal of the adverse rulings on the motion to suppress in the 7-Eleven case and the 404(b) motion in the Pharmacies case. The Appellate Division affirmed, but a different appellate panel then reached the opposite conclusion in Nyema’s appeal, holding that the same motor vehicle stop was not supported by reasonable and articulable suspicion.

The Court reversed the appellate panel in Myers and affirmed the panel in Nyema in a single decision, holding that there was no reasonable and articulable suspicion to stop the car. State v. Nyema, 249 N.J. at 516, 531 (2022). The Court reversed the denial of defendant’s motion to suppress the clothing and money, and vacated defendant’s armed robbery conviction. Id. at 519, 535.

The State moved to dismiss Indictment 11-08-0833, the 7-Eleven case, stating there was “insufficient evidence upon which to predicate successful prosecution.” Defendant then moved to withdraw his guilty plea under indictment numbers “11-08-0833/14-02-0232.” The judge denied the motion, and the Appellate Division affirmed. The Court granted certification. 261 N.J. 557 (2025).

HELD: Pursuant to Rules 3:5-7 and 3:9-3(f), and under the particular circumstances of this case, defendant must be permitted to withdraw his plea. That holding is specific to the facts of this case. The Court does not decide whether defendants who enter conditional pleas involving multiple indictments may always withdraw from the entire plea agreement after a successful appeal under only one indictment.

1. Plea agreements are governed by basic principles of contract law. Like other contracts, a plea agreement requires a meeting of the minds, and all material terms and relevant consequences must be clearly disclosed, fully understood, and knowingly and voluntarily accepted by the defendant. The New Jersey Court Rules govern guilty pleas and motions to suppress evidence. Pursuant to Rule 3:5-7(a), “a person claiming to be aggrieved by an unlawful search and seizure” may file a motion “to suppress the evidence.” If the motion to suppress is denied, the defendant is entitled to appeal even if he first pleads guilty. Id. at (d). Under Rule 3:9-3(f), also known as the conditional plea rule, a defendant may explicitly reserve the right to appeal the “adverse determination of any specified pretrial motion.” If the defendant then “prevails on appeal, the defendant shall be afforded the opportunity to withdraw his or her plea.” R. 3:9-3(f) (emphasis added). State v. Slater, 198 N.J. 145 (2009), set forth principles to assess plea withdrawal motions. The Court notes that, even after Slater, courts have permitted withdrawal pursuant to the conditional plea rule without reference to Slater. (pp. 19-23)

2. Here, defendant's motion to withdraw is governed by Rules 3:5-7(d) and 3:9-3(f), not by Slater. Although he was not required to preserve his right to appeal the denial of his motion to suppress because it was preserved automatically by Rule 3:5-7(d), defendant nonetheless specifically preserved, "[w]ith the approval of the court and the consent of the prosecuting attorney, . . . on the record," R. 3:9-3(f), his "right to appeal the denial" of the "404 B decision in [Indictment] 14-02-232 [and] motion to suppress physical evidence in [Indictment] 11-08-833." Defendant then "prevail[ed] on appeal" on the motion to suppress the physical evidence in Indictment 11-08-833. See R. 3:9-3(f); Nyema, 249 N.J. at 516, 535. Because defendant "prevail[ed] on appeal" of that motion, he "shall be afforded the opportunity to withdraw his . . . plea." R. 3:9-3(f). (pp. 23-24)

3. Under the particular facts of this case, "the opportunity to withdraw his . . . plea" must mean allowing defendant to withdraw his felony murder plea in the Pharmacies case. First, in the plea agreement and at the plea hearing, the parties and the court repeatedly referred to defendant's right to withdraw his one singular "plea," not two separate "pleas." Second, at the time of defendant's plea, the clothing and money seized after the 7-Eleven robbery were admitted as 404(b) evidence in the Pharmacies case. However, the clothing and money have now been suppressed, and the State does not argue that they can still be introduced against defendant in the Pharmacies case. And because the money and clothes were suppressed, the State now has less incriminating evidence to introduce against defendant in the Pharmacies case, and the bargaining positions of the parties as to those charges have been altered. In the specific circumstances of this case, therefore, defendant must be permitted to withdraw his felony murder guilty plea. The Court does not reach defendant's argument that under the conditional plea rule, a defendant is automatically entitled to withdraw from all guilty pleas entered as part of a global plea agreement any time he wins an appeal of any pre-plea motion. (pp. 25-29)

4. The Court refers to both the Supreme Court Committee on Criminal Practice and the Acting Administrative Director of the New Jersey Courts the question of whether to change plea forms in any way. The Court further encourages plea judges to clarify on the record the parties' intentions regarding conditional guilty pleas in cases with multiple separate indictments. (p. 29)

REVERSED. REMANDED for further proceedings.

CHIEF JUSTICE RABNER and JUSTICES PATTERSON, PIERRE-LOUIS, FASCIALE, NORIEGA, and HOFFMAN join in JUSTICE WAINER APTER's opinion.

SUPREME COURT OF NEW JERSEY

A-4 September Term 2025

090743

State of New Jersey,

Plaintiff-Respondent,

v.

Jamar J. Myers, a/k/a
Jamar Meyers,

Defendant-Appellant.

On certification to the Superior Court,
Appellate Division.

Argued
March 17, 2026

Decided
August 17, 2026

Alison Gifford, Assistant Deputy Public Defender, argued the cause for appellant (Jennifer N. Sellitti, Public Defender, attorney; Alison Gifford, of counsel and on the briefs).

Erin Rein, Assistant Prosecutor, argued the cause for respondent (Janetta D. Marbrey, Mercer County Prosecutor, attorney; Erin Rein, of counsel and on the briefs).

Ezra D. Rosenberg argued the cause for amicus curiae American Civil Liberties Union of New Jersey (American Civil Liberties Union of New Jersey Foundation, attorneys; Ezra D. Rosenberg, Rebecca Uwakwe, Brian Lozano, and Jeanne LoCicero, on the brief).

Remi L. Spencer argued the cause for amicus curiae Association of Criminal Defense Lawyers of New Jersey (Pashman Stein Walder Hayden, attorneys; Remi L. Spencer and Chelsea J. Nkrumah, of counsel and on the brief).

David M. Galembo, Deputy Attorney General, argued the cause for amicus curiae Attorney General of New Jersey (Jennifer Davenport, Attorney General, attorney; David M. Galembo, of counsel and on the brief).

JUSTICE WAINER APTEP delivered the opinion of the Court.

In this appeal, we consider whether defendant Jamar J. Myers must be permitted to withdraw his guilty plea to felony murder.

Defendant pleaded guilty to armed robbery and felony murder under two separate indictments in one plea agreement that repeatedly referred to his singular guilty “plea” rather than multiple pleas. The State, defendant, and the court all used the singular “plea” to refer to defendant’s global guilty plea, not multiple separate guilty pleas. In the plea agreement, defendant explicitly reserved his right to appeal a motion to suppress in the armed robbery case and a decision that allowed the challenged (and later suppressed) evidence to be admitted to prove defendant’s identity in the felony murder case. We reversed the trial and appellate courts’ judgments in the armed robbery case and suppressed the challenged evidence. The State moved to dismiss the armed robbery indictment and does not argue that the now-suppressed evidence can

still be admitted against defendant in the felony murder case. Defendant then moved to withdraw his felony murder guilty plea.

We now hold that, pursuant to Rule 3:5-7 and Rule 3:9-3(f), and under the particular circumstances of this case, defendant must be permitted to withdraw his plea. Our holding is specific to the facts of this case. We do not decide whether defendants who enter conditional pleas involving multiple indictments may always withdraw from the entire plea agreement after a successful appeal under only one indictment.

I.

The following facts come from the trial and appellate court hearings and decisions and defendant's plea agreement.

A.

At approximately 5:31 p.m. on April 29, 2011, police received a call regarding an attempted robbery at Vizzoni's Pharmacy in Hamilton, New Jersey. A surveillance camera captured a man who appeared to be holding an object in his pocket with his left hand while attempting to open the door with his right hand. The man wore all dark clothing, a black sweatshirt with the "Champion" brand emblem, and boots "folded over to give the appearance of floppy dog ears." He had a "bow-legged" right leg, and his face was covered

by a black handkerchief with white spots. The door to the pharmacy was locked, and the man walked away.

Approximately 23 minutes later, police responded to a call from the Brunswick Avenue Pharmacy in Trenton, New Jersey. Officers learned from the two employees who survived that a man had entered the pharmacy, pointed a handgun at them, and demanded Percocet. Their coworker, pharmacist Arjun Reddy Dyapa, tried to disarm the intruder. A scuffle ensued and one shot went off, killing Dyapa. The intruder ran out of the store. Surveillance video again showed the suspect with a bow-legged right leg, dark clothing, a black sweatshirt with the “Champion” emblem, and folded over boots that looked like dog ears. The surviving employees were unable to describe the suspect’s face because it was again covered by a black handkerchief with white spots. The footage also showed that the suspect brandished the handgun in his left hand.

One week later, on May 6, 2011 at approximately 11:08 p.m., Pennsylvania police responded to a robbery of a 7-Eleven in Morrisville, Pennsylvania. A store employee reported that a man had entered the store, brandished a handgun in his left hand, taken \$263 from the register, and fled. Surveillance video showed that the suspect was left-handed, wore all black clothing, a black sweatshirt with the word “Elite” on the back, and

Timberland-type boots that were not folded over like dog ears. His face was covered by a black handkerchief with white spots.

One hour later, at approximately 12:12 a.m. on May 7, 2011, police responded to a robbery of a 7-Eleven in Hamilton, New Jersey. Two masked men had taken the store clerk's cellphone and approximately \$358 from the register and fled. The man who demanded the money brandished a handgun in his left hand. Surveillance video showed the man wearing dark clothing, a black sweatshirt with the word "Elite" on the back, and tan Timberland boots. The man had a visibly bow-legged gait, and his face was covered by a black handkerchief with white spots.

Sergeant Mark Horan of the Hamilton Township Police Department heard a dispatch that the robbery suspects "were two Black males, one armed with a gun" and drove towards the 7-Eleven. State v. Nyema, 249 N.J. 509, 514-15 (2022).¹ On his way, Horan "used the mounted spotlight on his marked police car to illuminate the interior of passing vehicles in order to search for the robbery suspects." Id. at 515. In the first car, "a man and a woman reacted with annoyance and alarm when Horan shone the spotlight into their car"; Horan let them pass. Ibid. In the second car, approximately three-quarters of

¹ As explained below, we issued our decision on defendant's appeal and the appeal of his co-defendant, Peter Nyema, in a single decision.

a mile from the 7-Eleven, three Black men did not react to the spotlight. Ibid. Horan viewed this non-reaction as suspicious, activated his lights, and stopped the car. Id. at 515, 517.

Before reaching the vehicle, Horan learned “that the robbery suspects had been wearing dark or black clothing or jackets.” Id. at 517. He observed “dark jackets” on the backseat and floor of the car. Id. at 517-18. After learning that the vehicle had been reported stolen, Sergeant Horan and others arrested the three men inside -- defendant Jamar J. Myers and co-defendants Peter Nyema and Ajene Drew, a/k/a Tyrone Miller. Id. at 518. The officers seized the dark clothing from the car. Ibid. They then searched the car, seizing additional dark clothing from the trunk and a black handgun wrapped in a red bandana from under the hood. Ibid. A search incident to arrest of the three men yielded nearly \$600 in cash. Ibid.

Drew waived his Miranda rights and implicated defendant in the Vizzoni’s Pharmacy attempted robbery, the Brunswick Avenue Pharmacy homicide, and both 7-Eleven robberies, stating that he drove defendant to all four locations. Drew eventually pleaded guilty to two second-degree weapons offenses and agreed to testify against defendant and Nyema at trial.

A detective interviewed defendant twice. During those interviews, the detective noticed that defendant signed the Miranda waiver using his left hand

and that defendant's right leg bowed outward when he walked. Defendant explained that he had injured his right leg as a child.

In July 2011, defendant, Nyema, and Drew were charged under Indictment 11-08-0833 with armed robbery and eleven other offenses related to the Hamilton 7-Eleven robbery. Defendant and Nyema jointly moved to suppress the evidence from the motor-vehicle stop. The motion judge granted in part and denied in part. The court held that (1) "the initial stop was supported by reasonable and articulable suspicion"; (2) "the retrieval of the clothing from the interior of the vehicle was permitted under the plain view exception to the warrant requirement"; (3) "the money was lawfully seized incident to defendants' arrest"; but (4) "the full warrantless search of the vehicle, including the trunk and hood, which yielded the handgun, could not be justified by exigent circumstances because the vehicle's occupants were already securely in custody." Id. at 519.

In February 2014, defendant was charged under Superseding Indictment 14-02-0232 with murder, felony murder, robbery, attempted robbery, and eight other charges related to the attempted robbery at Vizzoni's Pharmacy and the homicide at Brunswick Avenue Pharmacy (the Pharmacies case).

The State moved under N.J.R.E. 404(b) to introduce as evidence against defendant in the Pharmacies case surveillance videos from both 7-Eleven

robberies and the clothing and money seized after the Hamilton robbery.² A different judge held an evidentiary hearing. The judge denied the State's motion as to the Pennsylvania 7-Eleven video, finding that because no distinctive bow-legged gait was apparent in that video, it failed the third prong of State v. Cofield, 127 N.J. 328 (1992).

The judge granted the State's motion as to the Hamilton 7-Eleven surveillance video and the seized clothing and money. The court specifically found that "the identity of the masked man cannot be discerned by the pharmacy videos," and "there is no eyewitness from the Brunswick Avenue Pharmacy incident . . . who can identify the suspect since the individual's face is covered." The court also found that although Drew would testify against defendant in the Pharmacies case, Drew's testimony was "compromised" because he (1) "'gave up' his co-defendants in exchange for a generous plea bargain"; (2) had "a history of changing his stories and ha[d] a prior criminal

² The State also sought to introduce a November 26, 2013 letter that it asserted defendant sent to a person named Samuel Anderson. The letter reads: "Look, I need something to happen because it will help my situation out a lot better. I need you to find a loyal [person] who not dumb and is about his action. I don't need nobody 'put under' water I just need something to be said to a young female. I'm not going to get all into it ain't no need until I know you can make something happen." According to the State, the letter was soliciting Anderson to find someone to harm Tiffany Semple, a witness who had implicated defendant in the Brunswick Avenue Pharmacy murder. The court found the letter was admissible in the Pharmacies case as evidence of defendant's consciousness of guilt.

record”; and (3) “allegedly [wrote] a letter to Myers asserting everything he told the police was a lie.” The judge therefore held that the Hamilton 7-Eleven video and the seized clothing and money could be admitted in the Pharmacies case to prove defendant’s identity.

On the morning of jury selection in the Pharmacies case, the judge and counsel for both defendant and the State advised defendant that if he did not accept the State’s final plea offer, he could be exposed to two consecutive life sentences: up to life imprisonment for armed robbery as a persistent offender in the 7-Eleven case, and up to life imprisonment for murder in the Pharmacies case, which could run consecutively. The judge specifically stated:

[O]ver the last few years I’ve been handling your cases I’ve made a number of decisions. Some decisions were contrary to the State, some were contrary to your interests. Obviously, even with a guilty plea, that doesn’t prevent you from filing an appeal and if an appellate court judge finds that I committed an error, that I was wrong in my 404(b) decisions or anything else, your guilty plea could be reversed.

The court then recessed to allow defendant to confer with counsel.

After the recess, the parties presented a single signed plea agreement. In the agreement, defendant agreed to plead guilty to: (1) felony murder as Count 3 of Indictment 14-02-0232, for which the State would recommend 30 years’ imprisonment with 30 years’ parole ineligibility; (2) armed robbery as Count 1 of Indictment 11-08-0833, for which the State would recommend a concurrent

12-year sentence subject to the No Early Release Act (NERA); and (3) three violations of probation, for which the State would recommend sentences of time served. The State agreed to dismiss all remaining charges, including a separate indictment for aggravated assault on a law enforcement officer.

Under Question 4(e) of the signed plea agreement, “Do you further understand that by pleading guilty you are waiving your right to appeal the denial of all other pretrial motions except the following,” the parties circled “Yes” and handwrote: “404 B decision in 14-02-232; motion to suppress physical evidence in 11-08-833.”

Under Question 13, “Specify any sentence the prosecutor has agreed to recommend,” the parties handwrote:

On 14-02-232 30 years no parole eligibility for 30 years, Count 3. On 11-08-833 12 years subject to NERA on Count 1, concurrent to sentence on 14-02-232. Defendant reserves right to withdraw plea if current Pennsylvania charges are not run concurrent to this plea. State does not oppose. All open VOPs time served concurrent.

Defendant provided a factual basis for the plea, testifying that he pointed the handgun during the armed robbery of the 7-Eleven and caused the death of Dyapa during the armed robbery of the Brunswick Avenue Pharmacy. He also affirmed that he was entering the plea “voluntarily” and “with knowledge of

the consequences,” that “no one [wa]s forcing [him] to plead guilty,” and that no threats or undisclosed promises had been made.

Defense counsel highlighted that defendant was “reserving his right to appeal the 404(b) decision in the homicide case and the motion to suppress physical evidence in the Hamilton armed robbery case.” The prosecutor reiterated that defendant was “free to withdraw his guilty plea without opposition from the State” if Pennsylvania refused to run any sentence concurrently.

Defendant was sentenced in accordance with the plea agreement. The judge entered one judgment of conviction for the Pharmacies case and one judgment of conviction for the 7-Eleven case.

Defendant appealed, seeking reversal of the adverse rulings on the motion to suppress in the 7-Eleven case and the 404(b) motion in the Pharmacies case. The Appellate Division affirmed in an unpublished decision, holding in part that the motor vehicle stop was supported by reasonable and articulable suspicion. This Court denied certification. 240 N.J. 22 (2019).

A different appellate panel then reached the opposite conclusion in Nyema’s appeal, holding that the same motor vehicle stop was not supported by reasonable and articulable suspicion. State v. Nyema, 465 N.J. Super. 181, 185 (App. Div. 2020). We granted certification in State v. Nyema, 245 N.J.

256 (2021), and granted defendant’s motion for reconsideration “limited to the issue of whether the police officer had reasonable articulable suspicion to stop the car,” State v. Myers, 245 N.J. 250 (2021).

We reversed the appellate panel in Myers and affirmed the panel in Nyema in a single decision, holding that because “[t]he only information the officer possessed at the time of the stop was the race and sex of the suspects,” there was no reasonable and articulable suspicion to stop the car. Nyema, 249 N.J. at 516, 531. We reversed the denial of defendant’s motion to suppress the clothing and money, and vacated defendant’s armed robbery conviction. Id. at 519, 535. We did not discuss the Pharmacies case beyond noting that defendant “also pled guilty to first-degree felony murder on an unrelated indictment.” Id. at 520 & n.2.

B.

The State moved to dismiss Indictment 11-08-0833, the 7-Eleven case, stating there was “insufficient evidence upon which to predicate successful prosecution.” Pennsylvania authorities declined to prosecute defendant for the 7-Eleven robbery in Morrisville.

Defendant, self-represented, then moved to withdraw his guilty plea under indictment numbers “11-08-0833/14-02-0232.” In his handwritten certification, defendant wrote that he “accepted a global plea deal[] on

conditional terms,” and the deal “was not upheld” because the “404-B evidence that was improperly admitted into defendant’s homicide trial ha[d] been suppressed.”

A different judge held oral argument. At argument, defense counsel maintained that: (1) if the trial court had correctly suppressed the clothing and money, that would “have drastically changed the posture of the homicide case”; and (2) defendant reasonably believed that he was entering a “contingent plea” because “the plea forms, the plea hearing, everything was done all at the same time, everything was entered together, they were premised on each other.” Counsel therefore argued that pursuant to State v. Slater, 198 N.J. 145 (2009), defendant should be permitted to withdraw his plea. The State disputed that Slater was satisfied and emphasized that allowing defendant to withdraw his plea would unfairly prejudice the victim’s family.

The judge denied defendant’s motion to withdraw his guilty plea, finding he had failed to satisfy Slater. The court specifically found that although “the parties contemplated retaining a lot of rights in terms of appeals, . . . there was never any effort to retain any right to undo the murder conviction if the robbery conviction was somehow reversed.” The court also found that allowing defendant to withdraw would unfairly prejudice the State by forcing

it to “to put together a homicide case 12 years post crime date and some almost six-plus years post resolution by way of guilty plea.”

Defendant appealed. The Appellate Division initially heard the appeal on the Sentencing Oral Argument Calendar. Defense counsel argued that defendant was entitled to withdraw from his global, conditional plea pursuant to Rule 3:9-3(f) and the motion court erred by relying on Slater. Counsel also argued that the strength of the State’s evidence against defendant in the Pharmacies case, and therefore the “bargaining positions of the parties,” was “significantly different” because the State could no longer admit the suppressed clothing or money.

The Appellate Division affirmed the denial of defendant’s motion. The Appellate Division then granted defendant’s motion for reconsideration and transferred his appeal to its plenary calendar. In his counseled brief, defendant asserted that “he was entitled to withdraw under the conditional plea rule.” In defendant’s pro se brief, he stated that “he would not have taken a plea deal and would have” instead gone “to trial if the trial court judge . . . had informed defendant that one of the sentences under the []global/whole conditional plea deal could still stand.”

The Appellate Division again affirmed. The appellate court acknowledged that defendant “did enter pleas in one global agreement.” But it

held that defendant had no right to withdraw under Rule 3:9-3(f) because “[t]he right to appeal the suppression decision in the 7-Eleven case . . . was distinct from, and not related to, defendant’s plea to felony murder in the [Pharmacies] case.” The Appellate Division explained:

[D]efendant reserved his right to appeal the N.J.R.E. 404(b) decision in the [Pharmacies] case. He separately reserved his right to appeal the suppression decision in the 7-Eleven case. Consequently, when the motion to suppress the physical evidence in the 7-Eleven case was reversed, defendant got exactly what he conditionally bargained for in the plea agreement: his plea to the robbery conviction was vacated.

There is nothing in the plea agreement that stated, or suggested, that defendant would have the right to withdraw his guilty plea regarding his felony murder conviction based on the reversal of a motion in the separate 7-Eleven case.

The Appellate Division then concluded that defendant failed to satisfy Slater. According to the appellate court, “[w]ithdrawing defendant’s plea to felony murder at this stage would result in unfair prejudice to the State” because although the “State was prepared to go to trial” in 2016, “it is not clear that the State would still be able to marshal all the evidence that it had available” in 2016. The Appellate Division also held that “suppression of the evidence seized in the 7-Eleven case” would not have “undermined the [State’s] strong evidence in the [Pharmacies] case.”

We granted defendant’s petition for certification. 261 N.J. 557 (2025). We also granted leave to appear as amicus curiae to the Association of Criminal Defense Lawyers of New Jersey (ACDL), the American Civil Liberties Union of New Jersey (ACLU), and the Attorney General.

II.

Defendant argues that the Appellate Division’s holding is “contrary to the plain language of the conditional plea rule, as well as basic principles of contract law and fundamental fairness that govern plea agreements.” When a defendant pleads guilty to multiple indictments as part of a “global plea agreement,” defendant urges, the plain language of Rule 3:9-3(f) automatically grants him the right to withdraw from the entire global plea if he successfully appeals a pre-plea motion that relates to only one indictment, so long as the State does not explicitly provide otherwise in the text of the plea agreement itself. In the alternative, defendant contends, even if the conditional plea rule does not grant a defendant the automatic right to withdraw his entire plea if he successfully appeals an “unrelated” pre-plea motion, here, “the suppressed evidence in the 7-Eleven Case actually weakens the State’s proofs in the [Pharmacies] Case.” Slater, defendant maintains, is irrelevant because it only governs motions to withdraw a plea based on claims of actual innocence.

The ACDL argues that “our caselaw consistently has allowed defendants who enter into conditional pleas on a single charge and then successfully appeal a pretrial ruling affecting that charge to withdraw from their conditional plea” and “the same result should follow when a defendant enters into a conditional plea to two indictments and the ruling successfully appealed from affects both.” That is so, the ACDL contends, because it is impossible for courts to assess whether the defendant “would again plead guilty after knowledge that some . . . of the challenged evidence is to be suppressed.” (quoting People v. Hill, 528 P.2d 1, 29 (Cal. 1974)).

The ACLU similarly argues that “all pleas connected to the illegal evidence should be vacated.” According to the ACLU, once defendant appealed “from the denial of the motion to suppress, the conditions of Rule 3:5-7(d) had been met, and victory on appeal would necessarily allow Mr. Myers to withdraw his plea to any charge to which he pleaded which was connected to the suppressed evidence.”

The State argues that the conditional plea rule does not apply to pleas for multiple unrelated indictments without explicit agreement of the parties, and “the reversal of a pretrial motion in an unrelated case is wholly irrelevant when determining whether a defendant is entitled to withdraw his plea” under the conditional plea rule. In addition, the State urges, this Court should

affirmatively require defendants “to assert a colorable claim of innocence when attempting to withdraw a plea under the conditional plea rule.” Here “the trial and appellate courts correctly applied the [Slater] factors,” which, the State asserts, should still apply “when analyzing a request to withdraw under the conditional plea rule.” The State also explains that “it would be a travesty of justice” to allow defendant to withdraw his guilty plea after he “heinously took Mr. Dyapa’s life.”

The Attorney General argues that a defendant cannot “automatically retract his guilty plea to one crime after successfully appealing a separate crime resolved in the same plea agreement.” “Plea agreements,” the Attorney General asserts, “are judged by their express terms, not conditions which could have been included but were not.” Here, having lost his appeal on the Pharmacies case, the Attorney General contends, “defendant had no . . . right to withdraw his guilty plea to felony murder when the parties did not expressly agree to and the court did not sanction that condition.” More broadly, the Attorney General maintains, “unless expressly bargained otherwise, a defendant’s successful challenge to one case does not entitle him to withdraw his plea to a second case resolved in the same plea agreement,” and “the conditional-plea rule does not entitle [a] defendant to withdraw his plea to a crime that was not the subject of the condition.” The Attorney General also

agrees with the State that allowing defendant to withdraw his guilty plea would “result in a gross injustice,” because the leverage the State once had against co-defendant Drew is “gone, with Drew having been sentenced years ago.”

III.

A.

Plea agreements are governed “by basic principles of contract law.” State v. Means, 191 N.J. 610, 622 (2007). Like other contracts, “[a] plea agreement . . . requires a meeting of the minds.” State v. Smith, 306 N.J. Super. 370, 383 (App. Div. 1997); accord Means, 191 N.J. at 622.

“It is axiomatic in plea bargaining that all material terms and relevant consequences be clearly disclosed, fully understood, and knowingly and voluntarily accepted by the defendant.” State v. Warren, 115 N.J. 433, 444 (1989). In addition, “[a] defendant has the right not to be ‘misinformed’ about a material element of a plea agreement and to have his or her ‘reasonable expectations’ fulfilled.” State v. McNeal, 237 N.J. 494, 499 (2019) (quoting State v. Bellamy, 178 N.J. 127, 134 (2003)). Therefore, if misinformation “directly induced” a defendant “to enter the plea,” he should be permitted “to withdraw from the bargain.” State v. Taylor, 80 N.J. 353, 365 (1979). And when the material terms of a plea agreement change, the parties may no longer

be bound by the agreement because “there may be no meeting of the minds between the State and defendant.” State v. Hess, 207 N.J. 123, 160 (2011).

B.

The New Jersey Court Rules govern guilty pleas and motions to suppress evidence. See generally R. 3:5-7; R. 3:9; R. 3:21-1. “[W]e review the meaning or scope of a court rule de novo, applying ‘ordinary principles of statutory construction to interpret the court rules.’” DiFiore v. Pezic, 254 N.J. 212, 228 (2023) (quoting State v. Robinson, 229 N.J. 44, 67 (2017)). “We begin with the plain language of the rule, and ascribe to the words of the rule their ordinary meaning and significance and read them in context with related provisions so as to give sense to the court rules as a whole.” In re Protest of Contract for Retail Pharmacy Design, 257 N.J. 425, 436 (2024) (internal quotation marks and alterations omitted) (quoting DiFiore, 254 N.J. at 228).

Pursuant to Rule 3:5-7(a), “a person claiming to be aggrieved by an unlawful search and seizure” may file a motion “to suppress the evidence.” If “material facts” about the search and seizure “are disputed,” the court shall hold a hearing. Id. at (c). If the motion to suppress is denied, the defendant is entitled to appeal even if he first pleads guilty: “Denial of a motion made pursuant to this rule may be reviewed on appeal from a judgment of conviction

notwithstanding that such judgment is entered following a plea of guilty.” Id. at (d).

A defendant may also explicitly reserve the right to appeal the “adverse determination of any specified pretrial motion.” R. 3:9-3(f). If the defendant then “prevails on appeal, the defendant shall be afforded the opportunity to withdraw his or her plea.” Ibid. (emphasis added). Rule 3:9-3(f), also known as the conditional plea rule, reads in full:

With the approval of the court and the consent of the prosecuting attorney, a defendant may enter a conditional plea of guilty reserving on the record the right to appeal from the adverse determination of any specified pretrial motion. If the defendant prevails on appeal, the defendant shall be afforded the opportunity to withdraw his or her plea. Nothing in this rule shall be construed as limiting the right of appeal provided for in R. 3:5-7(d).

C.

In State v. Slater, the defendant moved to suppress evidence found in a motel room, arguing “that the warrantless search of the motel room was unlawful.” 198 N.J. at 151. The trial court denied the motion, holding that police “officers’ entry into the motel room was consensual, and that while in the room the officers inadvertently observed contraband in plain view.” Id. at 151-52. The State and Slater then reached a plea agreement, and Slater pleaded guilty to possession with intent to distribute cocaine. Id. at 152.

Twelve days later, before he was sentenced, Slater moved to withdraw his plea, arguing that he was “just visiting the motel room where the cocaine was found, that the room was registered to another person, and that he had no knowledge or control of the drugs.” Id. at 152-53, 162. Slater “asserted his innocence” and stated that he wanted “to go to trial.” Id. at 153, 162. The trial court held that Slater did not provide a sufficient basis to withdraw his guilty plea, and the Appellate Division affirmed. Id. at 153.

We highlighted the Court Rules’ two different standards to be satisfied in a motion to withdraw a guilty plea “dependent on the time a plea withdrawal motion is made”: “[m]otions filed at or before the time of sentencing will be granted in the ‘interests of justice,’” whereas “post-sentencing motions must meet a higher standard of ‘manifest injustice.’” Id. at 156 (first quoting R. 3:9-3(e) (“If at the time of sentencing the court determines that the interests of justice would not be served by effectuating the agreement reached by the prosecutor and defense counsel . . . , the court may vacate the plea or the defendant shall be permitted to withdraw the plea.”)); and then quoting R. 3:21-1 (“A motion to withdraw a plea of guilty . . . shall be made before sentencing, but the court may permit it to be made thereafter to correct a manifest injustice.”)).

We then “distill[ed] some common principles” from our prior case “law in an effort to help trial courts assess plea withdrawal motions” going forward. Id. at 157. In so doing, we held:

[T]rial judges are to consider and balance four factors in evaluating motions to withdraw a guilty plea: (1) whether the defendant has asserted a colorable claim of innocence; (2) the nature and strength of defendant’s reasons for withdrawal; (3) the existence of a plea bargain; and (4) whether withdrawal would result in unfair prejudice to the State or unfair advantage to the accused.

[Id. at 157-58.]

We explained that “[n]o factor is mandatory.” Id. at 162. After analyzing each factor, we held that Slater met his burden and was “entitled to withdraw his guilty plea in the interests of justice.” Id. at 165.

Even after Slater, however, the Appellate Division has continued to permit withdrawal pursuant to the conditional plea rule without reference to Slater. See, e.g., State v. Desir, 461 N.J. Super. 185, 194 (App. Div. 2019) (reversing the denial of defendant’s motion to compel discovery and remanding to allow defendant to withdraw his conditional guilty plea (citing Rule 3:9-3(f) but not mentioning Slater)); State v. Smith, 471 N.J. Super. 548, 555 n.2, 574 & n.21 (App. Div. 2022) (reversing the denial of defendant’s motion to sever and remanding to allow defendant to withdraw his guilty plea (citing Rule 3:9-3(f) but not mentioning Slater)).

IV.

We hold that in the specific circumstances of this case, defendant must be permitted to withdraw his felony murder guilty plea.

Defendant's motion to withdraw is governed by Rules 3:5-7(d) and 3:9-3(f), not by Slater. Defendant moved to suppress the clothing and money seized by police after the Hamilton 7-Eleven robbery. Although he was not required to preserve his right to appeal the denial of this motion because it was preserved automatically by Rule 3:5-7(d), defendant nonetheless specifically preserved, "[w]ith the approval of the court and the consent of the prosecuting attorney, . . . on the record[,] the right to appeal from the adverse determination" of two "specified pretrial motion[s]." See R. 3:9-3(f). Namely, defendant's plea agreement explicitly preserved his "right to appeal the denial" of the "404 B decision in [Indictment] 14-02-232 [and] motion to suppress physical evidence in [Indictment] 11-08-833."

Defendant then "prevail[ed] on appeal" on the motion to suppress the physical evidence in Indictment 11-08-0833. See R. 3:9-3(f). We specifically held there was no reasonable and articulable suspicion to stop the car in which defendant was a passenger, and we therefore reversed the denial of defendant's motion to suppress the clothing and money seized during the stop. See Nyema, 249 N.J. at 516, 535. Because defendant "prevail[ed] on appeal" of

that motion, he “shall be afforded the opportunity to withdraw his . . . plea.”

R. 3:9-3(f).

We hold that under the particular facts of this case, “the opportunity to withdraw his . . . plea” must mean allowing defendant to withdraw his felony murder plea in the Pharmacies case.

First, in the plea agreement and at the plea hearing, the parties and the court repeatedly referred to defendant’s right to withdraw his one singular “plea,” not two separate “pleas.” Under Question 13 of the plea agreement form, the parties handwrote: “Defendant reserves right to withdraw plea if current Pennsylvania charges are not run concurrent to this plea. State does not oppose.” Twice, this response refers to the singular “plea,” stating explicitly that if Pennsylvania refused to run its sentence concurrently with “this plea,” defendant reserved the right to withdraw his “plea.” If the parties believed that defendant was pleading guilty to felony murder and armed robbery separately, such that he needed to reserve rights to withdraw from both guilty pleas separately, they should have written: “Defendant reserves right to withdraw pleas if current Pennsylvania charges are not run concurrent to these pleas.” They did not.³

³ The Attorney General argues that the plea agreement’s “silence on any condition allowing defendant to withdraw from his felony-murder guilty plea based on a successful appeal [of the motion to suppress in the 7-Eleven case]

The State confirmed this interpretation during the plea hearing, explaining: “what we’ve indicated in the plea papers is if . . . Pennsylvania is not willing to run their sentence concurrent, [defendant] is free to withdraw his guilty plea without opposition from the State.” (emphasis added). The State itself thereby affirmed that reference to “his guilty plea” meant defendant’s entire guilty plea, not one specific guilty plea or separate guilty pleas for armed robbery and felony murder under separate indictments.

Similarly, before defendant signed the plea agreement, the court explicitly told defendant:

[O]ver the last few years I’ve been handling your cases I’ve made a number of decisions. Some decisions were contrary to the State, some were contrary to your interests. Obviously, even with a guilty plea, that doesn’t prevent you from filing an appeal and if an appellate court judge finds that I committed an error, that I was wrong in my 404(b) decisions or anything else, your guilty plea could be reversed.

[(emphases added).]

stands in stark contrast to how the parties handled the Pennsylvania case.” But the response to Question 4(e) explicitly reserved defendant’s “right to appeal from the adverse determination of [the] specified pretrial motion[s],” thus triggering the right to “withdraw his . . . plea” if defendant “prevail[ed] on appeal.” R. 3:9-3(f). There was no such right to withdraw under the Rule for the Pennsylvania case, as it was not the subject of any pretrial motion and was not listed in the response to Question 4(e). That is why the parties had to specifically provide for withdrawal if Pennsylvania refused to run any sentence concurrently.

In other words, the trial court described the consequence of a successful appeal on “anything” as the possible reversal of defendant’s singular “guilty plea” -- not one specific plea or multiple separate guilty pleas. Cf. McNeal, 237 N.J. at 499 (explaining that a defendant may withdraw a guilty plea if “misinformed of the terms of the agreement or . . . [if] his or her reasonable expectations were violated” (quoting Bellamy, 178 N.J. at 135)).⁴

Second, at the time of defendant’s plea, the clothing and money seized after the 7-Eleven robbery were admitted as 404(b) evidence in the Pharmacies case. The State sought to use the clothing and money to link defendant to the 7-Eleven robbery and to then argue that the suspect in the 7-Eleven surveillance video was the same person as the suspect in the Brunswick Avenue Pharmacy surveillance video, thus linking defendant to the homicide. In his 404(b) ruling, the judge specifically highlighted the “probative value” of the “clothing and cash discovered . . . during the motor vehicle stop” on the

⁴ In Hunter v. United States, the United States Supreme Court clarified that a court’s statement during sentencing cannot orally modify a signed plea agreement. See 146 S. Ct. 1702, 1710 (2026). In Hunter, the judge told defendant at sentencing that he had a right to appeal, even though defendant had knowingly and voluntarily waived his right to appeal in his signed plea agreement. Id. at 1708-10. Neither defense counsel nor the prosecutor objected. Id. at 1709. Here, unlike in Hunter, the trial court’s statement did not contradict the explicit agreement of the parties in the signed plea agreement. Instead, the plea agreement, the parties, and the court all uniformly referred to defendant’s right to withdraw his one global “plea,” not two separate guilty “pleas.”

Pharmacies case because no eyewitness from the Brunswick Avenue Pharmacy could “identify the suspect since the individual’s face is covered” and the State’s “identification evidence” was otherwise “limited.”

However, the clothing and money have now been suppressed, and the State does not argue that they can still be introduced against defendant in the Pharmacies case.⁵ “The bargaining positions of the parties [are] determined . . . by the aggregate strength of all the incriminating evidence accumulated by the state.” People v. Miller, 658 P.2d 1320, 1325-26 (Cal. 1983). In this case, because the money and clothes were suppressed, the State now has less incriminating evidence to introduce against defendant in the Pharmacies case, and “the bargaining positions of the parties” as to those charges have been

⁵ The Attorney General, appearing as amicus curiae, does argue that the suppressed money and clothing could still be admitted as 404(b) evidence in the Pharmacies case because “[t]his Court’s suppression of the cash and clothes in the 7-Eleven case, resulting in the total dismissal of a first-degree robbery case that alone could have subjected defendant to an extended term of life imprisonment, adequately served the exclusionary rule’s purpose,” and “[e]xtending [the holding in Nyema] to preclude the use of this evidence” against defendant in the Pharmacies case “would give defendant an undeserved windfall with no associated benefit.” However, “amici ‘must accept the case before the court as presented by the parties and cannot raise issues not raised by the parties.’” Pritchett v. State, 248 N.J. 85, 96 (2021) (quoting State v. Lazo, 209 N.J. 9, 25 (2012)); see also State v. J.R., 227 N.J. 393, 421 (2017) (“This Court does not consider arguments that have not been asserted by a party, and are raised for the first time by an amicus curiae.”). We therefore decline to consider this argument.

“alter[ed].” Id. at 1326. In such a circumstance, we agree with the ACDL that “[t]he accused must be afforded an opportunity to personally elect whether” to withdraw his plea or not. Hill, 528 P.2d at 29-30.

We are sympathetic to the State’s argument on prejudice. But in the specific circumstances of this case, we hold that defendant must be permitted to withdraw his felony murder guilty plea. We do not reach defendant’s argument that under the conditional plea rule, a defendant is automatically entitled to withdraw from all guilty pleas entered as part of a global plea agreement any time he wins an appeal of any pre-plea motion.⁶

We refer to both the Supreme Court Committee on Criminal Practice and the Acting Administrative Director of the New Jersey Courts the question of whether to change our plea forms in any way. We further encourage plea judges to clarify on the record the parties’ intentions regarding conditional guilty pleas in cases with multiple separate indictments.

⁶ Defendant cites the Appellate Division’s statement in State v. Diloreto that “[i]f the defendant simultaneously pleads to multiple indictments and the [successfully appealed] preplea motion relates to only one,” “our plea preservation rules give the defendant the right to withdraw” his pleas as to all indictments. 362 N.J. Super. 600, 616 & n.6 (App. Div. 2003), aff’d, 180 N.J. 264 (2004). But the defendant in Diloreto pleaded guilty to only one indictment, not multiple indictments. Id. at 605. And he did not successfully appeal any preplea motion -- instead, the Appellate Division affirmed the trial court’s denial of the defendant’s motion to suppress. Id. at 627-30. The Appellate Division’s statement is therefore dicta twice over.

V.

The judgment of the Appellate Division is reversed. The case is remanded to the trial court for further proceedings.

CHIEF JUSTICE RABNER and JUSTICES PATTERSON, PIERRE-LOUIS, FASCIALE, NORIEGA, and HOFFMAN join in JUSTICE WAINER APTER's opinion.