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publication in the New York Reports.

No. 100
The People &c.,
Respondent,
v.
Ross Campbell,
Appellant.

Abigail Everett, for appellant.
Ramandeep Singh, for respondent.

MEMORANDUM:

The order of the Appellate Division should be affirmed.

Under both federal and state constitutional standards,
defendant "bears the burden of establishing his claim[s] that
counsel's performance is constitutionally deficient" (People v
Nicholson, 26 NY3d 813, 831 [2016]). Defendant "must demonstrate

the absence of strategic or other legitimate explanations for counsel's alleged failure" (id.). On this record, defendant has not met that burden.

Defendant presents ineffective assistance of counsel claims that are "of the type where 'it . . . [is] essential[] that an appellate attack on the effectiveness of counsel be bottomed on an evidentiary exploration by collateral or post-conviction proceeding brought under CPL 440.10'" (People v Henderson, 28 NY3d 63, 66 [2016], quoting People v Brown, 45 NY2d 852, 854 [1978]).

* * * * *

Order affirmed, in a memorandum. Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Garcia, Wilson and Feinman concur.

Decided October 12, 2017