

**RECORD IMPOUNDED**

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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-2247-16T7

STATE OF NEW JERSEY,

Plaintiff-Appellant,

v.

IYAHNA BAKER,

Defendant-Respondent.

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Submitted March 7, 2017 - Decided April 11, 2017

Before Judges Fisher and Vernoia.

On appeal from the Superior Court of New  
Jersey, Law Division, Passaic County,  
Complaint No. W-2017-000410-1608.

Camelia M. Valdes, Passaic County Prosecutor  
(Robert J. Wisse, Assistant Prosecutor, of  
counsel and on the brief).

Sciro & Marotta, P.C., attorneys for  
respondent (Frank J. Sciro, Jr., of counsel  
and on the brief).

PER CURIAM

We granted the State's motion for leave to appeal to examine  
the trial court's denial of the State's motion for pretrial  
detention of defendant. We now affirm.

Defendant was charged with second-degree possession of a weapon for unlawful purpose, N.J.S.A. 2C:39-4(a)(1), second-degree unlawful possession of a handgun, N.J.S.A. 2C:39-5(b)(1), fourth degree aggravated assault by knowingly pointing a firearm at another, N.J.S.A. 2C:12-1(b)(4), and other disorderly persons offenses, including eluding arrest, N.J.S.A. 2C:29-2(a)(1).

At a January 31, 2017 hearing, the State presented the judge with the complaint-warrants, as well as the public safety assessment (PSA), the affidavits purporting to establish probable cause, and the preliminary law enforcement incident report (PLEIR) regarding defendant.<sup>1</sup>

At the hearing, the judge found from the affidavits that probable cause had been demonstrated. Those affidavits revealed that the arresting officer observed defendant point a silver handgun at another and, after giving "several commands" that defendant apparently ignored, the officer - with weapon drawn - "walked up behind" defendant, and "threw" defendant "up against a fence." The officer patted down defendant, obtained a handgun from

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<sup>1</sup> The nature of these documents and their application in matters governed by the new Bail Reform Act, N.J.S.A. 2A:162-15 to -26, which became effective January 1, 2017, are more fully discussed elsewhere. See State v. Robinson, \_\_ N.J. Super. \_\_ (App. Div.), leave to appeal granted, \_\_ N.J. \_\_ (2017); State v. Ingram, \_\_ N.J. Super. \_\_ (App. Div.), leave to appeal granted, \_\_ N.J. \_\_ (2017); State v. C.W., \_\_ N.J. Super. \_\_ (App. Div. 2017).

defendant's waistband, and arrested defendant. The victim departed before he could be questioned.


In light of the finding of probable cause - as well as the PSA's assignment of a score of two for failure to appear, a four for new criminal activity, and a flag for elevated risk of violence, all of which culminated in the PSA's recommendation that defendant not be released - the State argued defendant should be detained. In response, defendant argued a number of factors in contending that defendant should be released: her age (nineteen years old); the lack of any prior indictable or disorderly persons convictions; and the lack of any prior failures to appear. Defendant further asserted that she is a student at Passaic County Community College and a lifelong Paterson resident, living with her mother. Defense counsel also alluded to the "somewhat odd" fact that the alleged victim "just disappeared" from the scene, and claimed - "without going into the facts and details" - that defendant was "the victim."

Although the order entered by the trial judge did not explain why the judge departed from the pretrial services recommendation that defendant be detained - the judge mistakenly inserted "N/A" in this section of the order - in canvassing a transcript of the judge's oral decision that was provided following our grant of leave to appeal, we are satisfied the judge exercised her

considerable discretion, see C.W., supra, \_\_\_ N.J. Super. at \_\_\_  
(slip op. at 3), in releasing defendant upon the conditions noted  
in the order.

The trial court's order of January 31, 2017 is affirmed. The  
stay, which we previously granted, is hereby vacated.

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

  
CLERK OF THE APPELLATE DIVISION