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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-3395-15T2

STATE OF NEW JERSEY,

Plaintiff-Appellant,

v.

SHANNON WHOOLEY,

Defendant-Respondent.

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Argued January 18, 2017 – Decided August 8, 2017

Before Judges Espinosa, Suter, and Guadagno.

On appeal from the Superior Court of New  
Jersey, Law Division, Monmouth County,  
Docket Nos. W-2015-1201-475, S-2015-1201-476  
and W-2015-1337-524.

Monica Lucinda do Outeiro, Assistant  
Prosecutor, argued the cause for appellant  
(Christopher J. Gramiccioni, Monmouth County  
Prosecutor, attorney; Ms. do Outeiro, of  
counsel and on the brief).

Leslie B. Posnock argued the cause for  
respondent (Schwartz & Posnock, attorneys;  
Ms. Posnock, on the brief).

PER CURIAM

By our leave granted, the Monmouth County Prosecutor's  
Office (MCPO) appeals from the March 4, 2016 order entered by

Monmouth County Assignment Judge Lisa P. Thornton, granting defendant Shannon Whooley's motion to consolidate two disorderly persons offenses involving marijuana possession pending in municipal courts in Carteret, Middlesex County, and Ocean Township, Monmouth County. Defendant sought consolidation in order to apply for a conditional discharge pursuant to N.J.S.A. 2C:36A-1, a disposition which would be precluded if the two offenses were prosecuted separately.

Defendant's motion for consolidation was unopposed by both municipal court judges, both municipal prosecutors, the Middlesex County Prosecutor's Office, and the Middlesex County Assignment Judge. The MCPO was the only party to object to consolidation.

Rule 7:8-4 addresses consolidation of municipal court matters:

The court may order two or more complaints to be tried together if the offenses arose out of the same facts and circumstances, regardless of the number of defendants. In all other matters, the court may consolidate complaints for trial with the consent of the persons charged. Complaints originating in two or more municipalities may be consolidated for trial only with the approval of the appropriate Assignment Judge, who shall designate the municipal court in which trial is to proceed. A party seeking consolidation of complaints originating in different municipalities shall file a written motion for

that relief directly with the Assignment Judge.

MCPO argues consolidation is not appropriate as the two matters did not arise "out of the same facts and circumstances." MCPO also urges a strictly literal interpretation of the "for trial only" provision, and maintains consolidation is not available for negotiated dispositions such as a guilty plea, or for a diversion to conditional discharge.

We begin by noting that "[a] trial court's interpretations of the law and the legal consequences that flow from established facts are not entitled to any special deference." Manalapan Realty, L.P. v. Twp. Comm. of Manalapan, 140 N.J. 366, 378 (1995). Our review of the motion judge's interpretation of a court rule is de novo. Wash. Commons, LLC v. City of Jersey City, 416 N.J. Super. 555, 560 (App. Div. 2010), certif. denied, 205 N.J. 318 (2011). We must "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[.]" DiProspero v. Penn, 183 N.J. 477, 492 (2005) (citations omitted).

While the first sentence of Rule 7:8-4 appears to limit consolidation to matters arising "out of the same facts and circumstances," when read in conjunction with the next sentence,

it is apparent that the restriction is limited to instances where the persons charged do not consent to consolidation. The second sentence refers to "all other matters" and suggests that complaints may be consolidated "with the consent of the persons charged." R. 7:8-4. When read in context, the Rule allows for consolidation of municipal complaints when the offenses do not arise from the same facts and circumstances, as long as the defendant consents. Because defendant not only consented but sought consolidation here, we reject MCPO's argument that consolidation is precluded because the two matters did not arise out of the same facts and circumstances.

MCPO's second argument, that a court may only consolidate complaints "for trial," has a superficial appeal but does not withstand close scrutiny. Applying this interpretation would, for example, preclude the parties from resolving a consolidated matter with a negotiated plea agreement. "[W]here a literal interpretation would create a manifestly absurd result, contrary to public policy, the spirit of the law should control." Turner v. First Union Nat'l Bank, 162 N.J. 75, 84 (1999) (citing Watt v. Mayor & Council of Franklin, 21 N.J. 274, 278 (1956)).

"[W]hen a 'literal interpretation of individual statutory terms or provisions' would lead to results 'inconsistent with the overall purpose of the statute,' that interpretation should be


rejected." Hubbard v. Reed, 168 N.J. 387, 392-93 (2001) (quoting Cornblatt v. Barow, 153 N.J. 218, 242 (1998)).

In addition, and as Judge Thornton noted, her order granting consolidation only permits defendant to seek a conditional discharge. If the municipal judge determines that granting a conditional discharge under N.J.S.A. 2C:36A-1 is inappropriate, the case would, in fact, be consolidated for trial.

Consolidation comports with the "goals of uniformity and proportionality" in sentencing. State v. Pillot, 115 N.J. 558, 573 (1989). Denial of consolidation here could result in "disparate [treatment] for very similar crimes committed within a relatively brief period of time." Id. at 577. The rules for consolidation seek to avoid this kind of "idiosyncratic sentencing." Ibid.

Affirmed.

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

  
CLERK OF THE APPELLATE DIVISION