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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-3984-15T1

STATE OF NEW JERSEY,

Plaintiff-Respondent,

v.

SANDRA NOLLEY,

Defendant-Appellant.

Submitted March 14, 2017 – Decided July 14, 2017

Before Judges Koblitiz and Rothstadt.

On appeal from the Superior Court of New Jersey, Law Division, Camden County, Municipal Appeal No. A-34-15.

Stern & Eisenberg, PC, attorneys for appellant
(Evan Barenbaum, on the brief).

Mary Eva Colalillo, Camden County Prosecutor,
attorney for respondent (Maura Murphy Sullivan,
Assistant Prosecutor, of counsel and on the
brief).

PER CURIAM

Defendant Sandra Nolley appeals from an April 7, 2016 Law
Division order denying her municipal appeal and convicting her de

novo of obstructing the administration of law or other governmental function, N.J.S.A. 2C:29-1, a disorderly persons offense.

On appeal, defendant argues:

DEFENDANT DID NOT COMMIT A VIOLATION
OF OBSTRUCTION OF ADMINISTRATIVE
LAW OR OTHER GOVERNMENTAL FUNCTION.

According to defendant, the evidence adduced at trial did not support her conviction. She claims there was no evidence that she engaged in any criminal conduct; rather, she merely refused to provide police officers with her identification, which is not a crime. She also claims that the State presented no evidence "substantiating that [she] engage[d] in 'means of flight, intimidation, force, violence, or physical interference or obstacle' that would satisfy the components of the obstruction charge. N.J.S.A. 2C:29-1(a). The State argues we should affirm, as "the refusal to leave a scene when ordered to do so by police is a physical act that violates the obstruction statute."

We have reviewed the parties' contentions in light of our review of the record and applicable legal principles. We reverse.

At the municipal trial, Officer Matthew Olivieri testified that on May 23, 2015, at approximately 1:20 a.m. he responded to a call from Chris VanSciver to "remove an unwanted female" from an apartment. Upon arriving at the apartment, they were met by the caller, who invited them to come in. On entering, the officer

found defendant in the living room, and was informed that Chris's¹ father, Lester VanSciver, was asleep in another room. Olivieri testified that "at that point, [he] advised [defendant] that [Chris] did not want her there and asked her to leave several times." Defendant told the officers she was there to visit Lester. The officer asked for identification from defendant, which she refused to produce. Olivieri stated defendant recited the slogan "Hands up. Don't shoot" and that when she continued to refuse to leave the apartment or provide identification, he placed her under arrest for obstruction.

Defendant testified that she was in the apartment to visit Lester, who was going to help repair her car. She stated it was Lester's apartment, not Chris's, and she did not know why Chris called the police.

The municipal court judge found defendant guilty of obstruction and fined her \$750 plus costs. Defendant appealed to the Law Division. The judge who considered the appeal, conducted a trial de novo on the record and also found defendant guilty of obstruction, but reduced the fine to \$250. The judge stated that she was satisfied that the State proved all the elements of the offense and that defendant's repeated refusal to leave the

¹ To avoid confusion between Chris VanSciver and his father, Lester VanSciver, they are referred to by first name.

apartment "constitute[d] . . . physical interference and obstruction in violation of [N.J.S.A.] 2C:29-1."

We begin our review by acknowledging it is limited. We are bound to uphold the Law Division's findings if supported by sufficient credible evidence in the record. State v. Reece, 222 N.J. 154, 166 (2015). "Our review of the factual record is . . . limited to determining whether there is sufficient credible evidence in the record to support the Law Division judge's findings." State v. Powers, 448 N.J. Super. 69, 72 (2016) (citing State v. Johnson, 42 N.J. 146, 161-62 (1964)). Only if the Law Division's decision was so clearly mistaken or unwarranted "that the interests of justice demand intervention and correction," can we review the record "as if [we] were deciding the matter at inception and make [our] own findings and conclusions." Johnson, supra, 42 N.J. at 162; see also State v. Kuropchak, 221 N.J. 368, 383 (2015). But, like the Law Division, we are in no position to "weigh the evidence, assess the credibility of witnesses, or make conclusions about the evidence," and should therefore defer to the municipal court's credibility findings. State v. Barone, 147 N.J. 599, 615 (1997); State v. Cerefice, 335 N.J. Super. 374, 383 (App. Div. 2000). However, "a reviewing court owes no deference to the trial court in deciding matters of law." State v. Mann, 203 N.J. 328, 337 (2010).

With our limited standard of review in mind, we turn to the statute which defendant was convicted of violating. N.J.S.A. 2C:29-1, obstructing administration of law or other governmental function, provides:

A person commits an offense if he purposely obstructs, impairs or perverts the administration of law or other governmental function or prevents or attempts to prevent a public servant from lawfully performing an official function by means of flight, intimidation, force, violence, or physical interference or obstacle, or by means of any independently unlawful act. This section does not apply to failure to perform a legal duty other than an official duty, or any other means of avoiding compliance with law without affirmative interference with governmental functions.

[N.J.S.A. 2C:29-1(a) (emphasis added).]

"The purpose of this statute is 'to prohibit a broad range of behavior designed to impede or defeat the lawful operation of government,'" and confines its limits to "(1) violent or physical interference, [or] (2) other acts which are 'unlawful' independently of the purpose to obstruct the government." State v. Camillo, 382 N.J. Super. 113, 116-17 (App. Div. 2005) (quoting Final Report of the New Jersey Criminal Law Revision Commission, Vol. II, 1971, at 280). Under the statute, "not just any interference with the administration of law constitutes the criminal act of obstruction." Id. at 118.

Simply obstructing, impairing or perverting the administration of law or the governmental function is no longer a statutory violation; the obstruction must be carried out in a manner described in the statute: "by means of flight, intimidation, force, violence, or physical interference or obstacle, or by means of any independently unlawful act." N.J.S.A. 2C:29-1.

[Ibid. (emphasis added).]

In determining whether a defendant violated the statute, a court should not "loosely interpret what it means" to violate a criminal statute in order to find defendant guilty of "an independently unlawful act," pursuant to N.J.S.A. 2C:29-1. Powers, supra, 448 N.J. Super. at 76.

Applying these guiding principles, the record here is devoid of any indication that defendant obstructed within the meaning of the statute. There was no finding made that defendant was guilty of an independently unlawful act, such as trespass, and defendant's mere refusal to leave the apartment or provide identification did not rise to the level of physical interference when defendant was seemingly on the premises lawfully. See Camillo, supra, 382 N.J. Super. at 115, 118. Further, contrary to the State's argument, defendant's failure to turn over her identification or leave the apartment was not the equivalent of a defendant's failure to leave a scene while officers try to effectuate an arrest. See State v. Hernandez, 338 N.J. Super. 317, 323-24 (App. Div. 2001). There

was simply no aspect of defendant's conduct that violated the statute.

Reversed and remanded for entry of an order vacating defendant's conviction. We do not retain jurisdiction.

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



CLERK OF THE APPELLATE DIVISION