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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-4364-14T4

STATE OF NEW JERSEY,

Plaintiff-Respondent,

v.

VERE D. CANNONIER,

Defendant-Appellant.

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Argued November 28, 2016 – Decided December 20, 2016  
Remanded by Supreme Court June 15, 2017  
Resubmitted June 15, 2017 – Decided June 27, 2017

Before Judges Nugent and Haas.

On appeal from Superior Court of New Jersey,  
Law Division, Atlantic County, Indictment No.  
14-02-0418.

Joseph E. Krakora, Public Defender, attorney  
for appellant (Solmaz F. Firoz, Assistant  
Deputy Public Defender, of counsel and on the  
brief).

Damon G. Tyner, Atlantic County Prosecutor,  
attorney for respondent (Brett Yore,  
Assistant Prosecutor, of counsel and on the  
brief).

PER CURIAM

Following his guilty plea to second-degree unlawful possession of a weapon, N.J.S.A. 2C:39-5(b), and imposition of his sentence, a five-year custodial term with three and one-half years of parole ineligibility, defendant Vere D. Cannonier appealed from the resulting judgment of conviction. Defendant argued:

POINT I

MR. CANNONIER WAS CONVICTED OF CONDUCT THAT DID NOT CONSTITUTE A CRIME AT THAT TIME, THUS HIS CONVICTION IS ILLEGAL AND SHOULD BE VACATED.

A. The Plain Language of the Amnesty Law Establishes that Defendant Committed No Crime on January 13, 2014.

B. Defendant Need Not Establish that He Possessed the Firearm on August 8, 2013.

C. Mr. Cannonier was Precluded from Complying with the Terms of the Amnesty Law Following his Unlawful Arrest on January 13, 2014.

[State v. Cannonier, No. A-4364-14 (App. Div. Dec. 20, 2016).]

The "Amnesty Law" referenced in defendant's arguments was L. 2013, c. 117, "An Act Concerning the Possession of Certain Firearms (the Act)." The Act became effective August 8, 2013, and expired on February 5, 2014.

The Act was in effect when defendant was arrested and charged with second-degree unlawful possession of a weapon, N.J.S.A.

2C:39-5(b). Section one (the amnesty provision) of the Act provided:

1. Any person who has in his possession a handgun in violation of [N.J.S.A. 2C:39-5(b)] or a rifle or shotgun in violation of [N.J.S.A. 2C:39-5(c)] on the effective date of this act may retain possession of that handgun, rifle, or shotgun for a period of not more than 180 days after the effective date of this act. During that time period, the possessor of that handgun, rifle, or shotgun shall:

(1) transfer that firearm to any person lawfully entitled to own or possess it; or

(2) voluntarily surrender that firearm pursuant to the provisions of N.J.S.A. 2C:39-12.

[L. 2013, c. 117, § 1.]

Defendant did not mention the Act or the amnesty provision when he pleaded guilty. For that reason, we remanded the matter to permit defendant to file a motion to withdraw his guilty plea. Cannonier, supra, No. A-1364-14 (slip op. at 3-4). We explained that, in the event defendant chose to file the motion, the trial court would have "the opportunity to evaluate the motion under the appropriate standard of review and consider, among all other relevant factors, defendant's argument concerning the Act." Ibid.

The State filed a petition for certification. On June 15, 2017, the Supreme Court granted the petition and "summarily

remanded to the Superior Court, Appellate Division for reconsideration in light of State v. Harper, \_\_\_ N.J. \_\_\_ (2017)."  
State v. Cannonier, \_\_\_ N.J. \_\_\_ (2017). We have reconsidered the matter.

In Harper, the Supreme Court held that

[a] defendant charged under [N.J.S.A. 2C:39-5(b)] for possession during the amnesty period may raise the [Act] as an affirmative defense. To do so, a defendant must show two things: (1) that he possessed a handgun in violation of N.J.S.A. 2C:39-4(b) or (c) 'on the effective date of this act' – in other words that he unlawfully possessed a handgun on August 8, 2013; and (2) that he took steps to transfer the firearm or voluntarily surrender it during the 180-day period beginning on August 8, 2013, consistent with N.J.S.A. 2C:39-12 – that is, before authorities brought any charges or began to investigate his unlawful possession.

[Supra, \_\_\_ N.J. at \_\_\_ .]

The Court went on to explain that "[t]o invoke the amnesty defense, a defendant must abide by the same settled procedures that apply to other defenses." Ibid. Significantly, the Court explained that "[a]s with other affirmative defenses, a defendant must timely assert that defense or it is waived." Id. at \_\_\_.

"Generally, a guilty plea constitutes a waiver of all issues which were or could have been addressed by the trial judge before the guilty plea." State v. Robinson, 224 N.J. Super. 495, 498

(App. Div. 1988). There are exceptions, but none is applicable here.

In addition, if the suggestion of a defense is raised during a plea colloquy, then a trial judge must inquire whether the defendant is factually asserting the defense. See State v. Urbina, 221 N.J. 509, 528 (2015). Here, defendant did not raise the amnesty defense before pleading guilty, and nothing anyone said during the plea colloquy suggested the amnesty defense. Defendant thus waived the defense when he pleaded guilty. For that reason, we affirm his judgment of conviction.

Affirmed.

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

  
CLERK OF THE APPELLATE DIVISION