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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-3750-15T4

STATE OF NEW JERSEY,

Plaintiff-Respondent,

v.

LISSA M. VELEZ,

Defendant-Appellant.

Submitted March 8, 2017 – Decided January 19, 2018

Before Judges Fuentes and Gooden Brown.

On appeal from Superior Court of New Jersey,
Law Division, Atlantic County, Municipal
Appeal No. 41-15.

Jose B. Velez, attorney for appellant.

Diane M. Ruberton, Acting Atlantic County
Prosecutor, attorney for respondent (Courtney
M. Cittadini, Special Deputy Attorney General/
Acting Assistant Prosecutor, of counsel and
on the brief).

The opinion of the court was delivered by

FUENTES, P.J.A.D.

Defendant Lissa M. Velez was tried and convicted of careless
driving, N.J.S.A. 39:4-97, in the Hamilton Township Municipal

Court. The municipal court ordered defendant to pay a fine of \$206 and \$33 in court costs. Defendant appealed her conviction to the Law Division pursuant to Rule 3:23-8. Judge Patricia M. Wild reviewed de novo the evidence the State presented before the municipal court and again found defendant guilty of careless driving. Judge Wild ordered defendant to pay the same monetary penalties imposed by the municipal court.

Defendant now appeals her conviction to this court raising the following arguments:

POINT I

THE OFFENSE OF CARELESS DRIVING IS A QUASI-CRIMINAL OFFENSE AND THE STATE MUST [PROVE] EACH AND EVERY ELEMENT OF THE OFFENSE BEYOND A REASONABLE DOUBT.

POINT II

HEARSAY TESTIMONY OF OFFICER OLIVIO SHOULD NOT HAVE BEEN ALLOWED.

POINT III

THE FACTUAL FINDING[S] OF THE LAW DIVISION SUPERIOR COURT JUDGE ARE NOT SUPPORTED BY THE CREDIBLE EVIDENCE.

We reject these arguments and affirm. The State's case consisted entirely of the testimony of Hamilton Township Police Officer Cory Silvio. On June 24, 2015, she responded to the scene of a motor vehicle accident at "the yield sign coming off of the ramp from Wrangleboro Road merging, right before you merge onto

Route 40 eastbound." Two cars were involved in the accident. Officer Silvio testified that defendant was the driver of the car that "collided" with the rear of the other car. When asked to elaborate, Officer Silvio responded:

I observed significant front-end damage to vehicle 1 [defendant's car] as well as a broken windshield and minor damage to the rear of vehicle 2 which was in front of vehicle 1.

. . . .

Q. [] Did you have an opportunity to speak to the driver of vehicle 1 who you identified as Ms. Velez?

A. Yes.

Q. Did you have a discussion with her regarding how the accident occurred?

A. Yes.

. . . .

A. She was looking westbound, toward the westbound traffic, to look for traffic, and then she said that a car must have stopped in front of vehicle 2 because it was stopped. There's also a video, there's in-car video. It's a little bit hard to hear because [defendant's car] horn was going on at the time, but there are parts of that statement that are on the video.

N.J.S.A. 39:4-97 defines "careless driving" as driving a motor vehicle "without due caution and circumspection, in a manner so as to endanger, or be likely to endanger, a person or property[.]" Based on this evidence, Judge Wild found the State

met its burden of proving the elements of this motor vehicle infraction beyond a reasonable doubt.


Our standard of review is long-settled. We are bound to uphold the factual findings underlying the trial court's decision as long as those findings are supported by sufficient credible evidence in the record. State v. Elders, 192 N.J. 224, 243-44 (2007). The court's factual findings "are entitled to deference because the [trial] judge, unlike an appellate court, has the 'opportunity to hear and see the witnesses and to have the 'feel' of the case, which a reviewing court cannot enjoy.'" State v. Gonzales, 227 N.J. 77, 101 (2016) (quoting State v. Johnson, 42 N.J. 146, 161 (1964)).

Judge Wild had a rational basis to infer that defendant's attention was focused on the road she was about to merge with and consequently did not use due caution to avoid colliding into the car that was directly in front of her. A driver of a motor vehicle is required to maintain a prudent distance from the vehicle immediately in front to avoid a collision in the event the lead vehicle suddenly stops. See N.J.S.A. 39:4-89. The facts here are distinguishable from the misapplication of the doctrine of res ipsa loquitur in State v. Lutz, 309 N.J. Super. 317, 326-27 (App. Div. 1998), and the tractor trailer accident in State v. Wenzel,

113 N.J. Super. 215, 216-18 (App. Div. 1971). We discern no legal basis to overturn Judge Wild's verdict.

Affirmed.

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


CLERK OF THE APPELLATE DIVISION