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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-4003-16T1

STATE OF NEW JERSEY,

Plaintiff-Respondent,

v.

KIRILL BULATKIN,

Defendant-Appellant.

Submitted February 14, 2018 – Decided March 20, 2018

Before Judges Alvarez and Currier.

On appeal from Superior Court of New Jersey,
Law Division, Bergen County, Municipal Appeal
No. 008-01-17.

Robert F. Davies, attorney for appellant.

Dennis Calo, Acting Bergen County Prosecutor,
attorney for respondent (Michael R. Philips,
Special Deputy Attorney General/Acting
Assistant Prosecutor, of counsel and on the
brief).

PER CURIAM

Defendant Kirill Bulatkin appeals from the Law Division's
order entered after a de novo trial on the record. The Law

Division found him guilty of harassment under N.J.S.A. 2C:33-4(a). We affirm.

Defendant and his wife Marina Bulatkina separated after eight years of marriage. They have one child together. Defendant filed for divorce in June 2016. Three weeks later, Marina¹ signed a complaint-summons alleging that defendant had sent her text messages containing offensively coarse language that had caused her annoyance and alarm in violation of N.J.S.A. 2C:33-4(a).

During the municipal court trial, Marina testified that on June 20, 2016, she received a series of text messages in Russian from defendant. In one of the texts, defendant called Marina a "Russian whore," in another he accused her of "fucking in motels." In another exchange, defendant stated that he would call Marina a "whore" whenever he liked. Marina stated that defendant had previously threatened to disclose details of their divorce in a public forum, which she took as a threat to her modeling career. She testified that she was "terrifie[d]" and "scared" after receiving these texts.

Defendant also testified at trial and, although he admitted to using the described language in the texts, he clarified that

¹ For the ease of the reader, we refer to the parties by their first names. We mean no disrespect.

the proper translation from Russian to English is "Russian slut" instead of "Russian whore."² He stated that he sent these messages with the intent of stopping Marina from having any further personal conversations with him.

The municipal court judge found both parties credible, noting the similarity of their testimony. Finding that defendant had admitted to the use of vulgar language and had done so out of anger, and with the specific purpose to harass, the judge concluded that the State had met its burden of proof beyond a reasonable doubt for harassment under N.J.S.A. 2C:33-4(a).

Defendant appealed to the Law Division, and Judge Gary N. Wilcox conducted a trial de novo on the record, and subsequently issued a written decision on April 7, 2017. In his comprehensive decision, Judge Wilcox addressed each of defendant's arguments proffered to overturn the guilty finding, and concluded that the municipal court did not err in finding defendant guilty of harassment.

In this appeal, defendant reiterates the arguments made to the Law Division, contending that: 1) the text messages do not satisfy the elements of the offense of harassment; 2) the municipal

² The municipal court judge found that there was no meaningful difference between the use of "slut" and "whore," and that both "constitute[] sufficiently offensive and co[a]rse language under the statute."

court erroneously admitted testimony concerning prior text messages; 3) defendant's conduct was "domestic contretemps," not a crime; 4) the State failed to establish the contents of the text messages because it did not introduce written copies of the messages; and 5) the trial court erred in not taking judicial notice of the dismissal of a subsequent temporary restraining order entered against defendant. We are unpersuaded by these arguments.

Our scope of review is limited to whether the conclusions of the Law Division judge "could reasonably have been reached on sufficient credible evidence present in the record." State v. Johnson, 42 N.J. 146, 162 (1964). We do "not undertake to alter concurrent findings of facts and credibility determinations made by two lower courts absent a very obvious and exceptional showing of error." State v. Robertson, 228 N.J. 138, 148 (2017) (quoting State v. Locurto, 157 N.J. 463, 474 (1999)).

Appellate courts give substantial deference to a trial judge's findings of fact. Cesare v. Cesare, 154 N.J. 394, 411-12 (1998) (citing Rova Farms Resort, Inc. v. Investors Ins. Co., 65 N.J. 474, 484 (1974)). These findings should only be disturbed when there is no doubt that they are inconsistent with the relevant, credible evidence presented below, such that a manifest denial of justice would result from their preservation. Id. at


412. We owe no deference to the trial judge's legal conclusions. Manalapan Realty, L.P. v. Twp. Comm. of Manalapan, 140 N.J. 366, 378 (1995).

Judge Wilcox properly conducted a de novo trial by reviewing the transcripts and considering the written briefs and oral arguments of counsel. In giving due regard to the municipal court judge's credibility findings, Judge Wilcox found that defendant had violated N.J.S.A. 2C:33-4(a).

We discern no basis to disturb the trial judge's decision. He thoroughly reviewed the facts and we are satisfied there is sufficient credible evidence in the record to substantiate his findings. We conclude that defendant's arguments are without sufficient merit to warrant discussion in a written opinion, R. 2:11-3(e)(2), and affirm substantially for the thoughtful reasons expressed by Judge Wilcox.

Affirmed.

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


CLERK OF THE APPELLATE DIVISION