

**NOT FOR PUBLICATION WITHOUT THE
APPROVAL OF THE APPELLATE DIVISION**

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-4268-15T2

STATE OF NEW JERSEY,

Plaintiff-Respondent,

v.

RODNEY PRITCHARD,

Defendant-Appellant.

Argued December 12, 2017 – Decided February 27, 2018

Before Judges Fisher and Sumners.

On appeal from Superior Court of New Jersey,
Law Division, Monmouth County, Municipal
Appeal No. 15-074.

Peter M. O'Mara argued the cause for appellant
(The O'Mara Law Firm, attorneys; Peter M.
O'Mara, on the brief).

Mary R. Juliano, Assistant Prosecutor, argued
the cause for respondent (Christopher J.
Gramiccioni, Monmouth County Prosecutor,
attorney; Mary R. Juliano, of counsel and on
the brief; William A. Visone, Legal Assistant,
on the brief).

PER CURIAM

After the municipal court denied defendant's motion to suppress his incriminating statement made at his home to police officer Anthony Ciambone who was investigating a single-car accident, defendant entered a conditional plea of guilty to leaving the scene of the accident, N.J.S.A. 39:4-129(b). On de novo appeal, the Law Division judge upheld the denial of the motion and entry of defendant's guilty plea. The judge determined, as did the municipal court, that, based upon Ciambone's credible testimony, defendant's wife had unsolicitedly invited Ciambone into the couple's home where defendant admitted to driving the car that was in the accident. The judge found that because Ciambone did not ask to enter the house, he was under no obligation to inform her that she had the right to refuse his entry. Thus, defendant's admission was not suppressed.

Defendant argues on appeal:

POINT I

OFFICER CIAMBRONE'S WARRANTLESS ENTRY AND SEARCH OF THE [DEFENDANT'S] HOUSEHOLD WAS UNCONSTITUTIONAL, AND UNJUSTIFIED UNDER ANY EXCEPTION TO THE WARRANT REQUIREMENT.

POINT II

OFFICER CIAMBRONE DID NOT HAVE PROPER CONSENT TO ENTER THE [DEFENDANT'S] HOUSEHOLD, JUSTIFYING SUPPRESSION OF ALL EVIDENCE FOUND.

We affirm, substantially for the reasons set forth in the judge's oral decision. We add the following comments.

We need not detail the events that led Ciambrone to defendant's home to resolve this appeal. Suffice it to say, Ciambrone's investigation revealed that the license plate left at the accident scene was registered to the damaged car with a missing license plate that was parked in defendant's driveway. Consequently, the crux of this appeal turns on the judge's assessment of Ciambrone's entry into the house.

In reviewing an order denying a motion to suppress, we "uphold the factual findings underlying [a judge's] decision so long as those findings are supported by sufficient credible evidence in the record." State v. Gamble, 218 N.J. 412, 424 (2014). We only reverse if the decision was "so clearly mistaken that the interests of justice demand intervention and correction." Id. at 425 (quoting State v. Elders, 192 N.J. 224, 244 (2007)). The "[judge's] interpretation of the law, however, and the consequences that flow from established facts are not entitled to any special deference[,]" and are therefore reviewed de novo. Ibid. Moreover, the two-court rule provides that we "should not undertake to alter concurrent findings of facts and credibility determinations made by [a municipal court and the Law Division]

absent a very obvious and exceptional showing of error." State v. Locurto, 157 N.J. 463, 474 (1999).

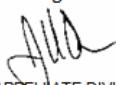
Defendant asserts that Ciambrone's entry into his home when he obtained defendant's incriminating statement was unconstitutional and not within an exception to the warrant requirement. We agree with defendant that under State v. Fair, 45 N.J. 77, 87 (1965), a police officer can enter a home without a warrant where there was a perceived threat to public safety, or where entry was necessary to prevent the destruction of evidence. However, that was not the situation here. As the State contends, Ciambrone did not need a warrant to lawfully enter the home after receiving consent, State v. Cushing, 226 N.J. 187, 199 (2016) (citing Schneckloth v. Bustamonte, 412 U.S. 218, 219 (1973)), from the homeowner, or from any person who the police reasonably believes has authority to consent. State v. Coles, 218 N.J. 322, 340 (2014). Moreover, there was no fault with the judge's reasoning that, in this non-custodial situation, there was no need to advise defendant's wife of her right to refuse to consent as required by State v. Johnson, 68 N.J. 349, 354 (1975), unless there was a request to search or enter the home.

Turning to the judge's finding that Ciambrone was given consent to enter defendant's home, she credited Ciambrone's testimony that defendant's wife, who he knew from her community

involvement, invited him into the home - without asking to enter - when he asked her if defendant was home, and escorted him to the basement where defendant was located. It was there that defendant informed Ciambrone that he drove the damaged car in the accident being investigated. Defendant points to no reason why we should upset that factual finding. Accordingly, we uphold the decision to deny defendant's motion to suppress.

Affirmed.

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


CLERK OF THE APPELLATE DIVISION