

NOT ELIGIBLE FOR PUBLICATION

STATE OF NEW JERSEY,

Plaintiff-Respondent,

v.

GEORGE CHRISTIANSON,

Defendant-Appellant.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – CRIMINAL PART
MONMOUTH COUNTYMunicipal Appeal No. 25-023
Fair Haven Municipal Court (1313)
Summons/Complaint Nos.: SC-005453,
SC-005454, & SC-005456**OPINION**

Trial de novo November 17, 2025 – Decided November 17, 2025

John F. DeBartolo, Esq., (Law Office of Timothy F. McGoughran,
LLC), for defendant,Raymond S. Santiago, Monmouth County Prosecutor for the State
(Monica do Outerio, Assistant Prosecutor, Michael Arato, Legal
Assistant).

GUADAGNO, J.A.D. (retired and temporarily assigned on recall)

In 1754, Benjamin Franklin wrote, “Love your neighbor; yet don’t pull down your hedge.” Poor Richard’s Almanack, (1758). 160 years later, poet laureate Robert Frost gave us the now well-known aphorism: “Good fences make good neighbors.” Mending Wall, (1914). The matter before this court reinforces Franklin’s admonition and casts doubt on Frost’s adage, as a large and defining property barrier did not forestall the conflict which ultimately led to the conviction of defendant, George

Christianson, for harassing his neighbors. Defendant now seeks de novo review of that judgment.

I.

The following facts are gleaned from the municipal court record. On July 19, 2024, Valeria Tucker, a resident of Fair Haven, filed a complaint (SC-005453) against her neighbor, defendant George Christianson, alleging harassment. Specifically, the complaint alleged that defendant hung “three middle finger foam cutouts to trees facing victims patio area . . . ” In a supporting certification, Ms. Tucker claimed that the harassment by Christianson began in July 2023 when defendant “verbally assaulted” Gabriel Tucker, Valeria Tucker’s husband.

On October 10, 2024, the parties appeared in Fair Haven Municipal Court before Judge Peter Lucas. At the request of the municipal prosecutor, Judge Lucas ordered defendant to have no contact with the Tuckers. The judge rejected a request from defendant’s counsel to make the no contact order apply to the Tuckers, as they had not been charged.

Subsequent harassment complaints were filed against defendant by Mr. Tucker on October 29, 2024, (SC-005454), and Mrs. Tucker on January 27, 2025 (SC-005456). Specifically, Mr. Tucker alleged that defendant threatened physical violence and verbally assaulted and harassed him on June 13, 2023; July 4, 2023; and July 6, 2023. He alleged the foam middle finger display on July 13, 2024, and

claimed defendant cursed at his dog over the fence on July 20, 2024.

Trial began on March 13, 2025, with the State calling Sergeant Jessie Dykstra of the Fair Haven Police Department (FHPD). Dykstra testified that on July 13, 2024, he responded to 138 Church Street for a report of harassment. Upon arrival, the officer spoke with Mrs. Tucker who directed him to her backyard. There he observed “multiple Styrofoam fingers . . . in the form of the middle finger.” A photograph of the display was marked as S-1 and identified by Dykstra. The officer testified that Mrs. Tucker’s voice was trembling and described her demeanor as upset, scared and crying.

Later, Dykstra spoke with defendant who stated he knew the officer was there because of the middle finger display and agreed to remove it. He acknowledged prior “disputes” with the Tuckers. Dykstra warned defendant, “you need to stop.”

On cross-examination, Dykstra was shown S-1 and testified that the middle finger display was hung from trees in defendant’s yard, entirely behind the fence separating the Tucker-Christianson yards.

The State then called Gabriel Tucker who testified that he met the defendant, his next-door neighbor, when he, his wife and their children moved to 138 Church Street in 2012. Initially their relationship was “amicable” but that changed in June 2023. Tucker wanted to trim some of the trees in his backyard and asked defendant for the name of his tree service. Defendant responded with an expletive-filled rant

stating they were “my fucking trees.” Defendant then complained about Mr. Tucker’s lawn and him not keeping his garbage cans in his garage. Defendant then told Mr. Tucker, “I should kick your fucking ass.” This concerned Mr. Tucker as defendant appeared “unhinged” and was a large man. Defendant then walked away, and Tucker returned to his home.

The next altercation occurred on July 4, 2023. As defendant was pulling his pickup into his driveway, Mr. Tucker noticed that defendant was yelling at his wife, Valeria. After defendant parked his truck, he got out and continued yelling at Mrs. Tucker calling her a “fucking bitch.” Defendant then walked toward Mrs. Tucker, coming within a foot of her. When Mr. Tucker approached, defendant challenged him to a fight, saying “we should go at it right now.” Mr. Tucker told defendant to go to his backyard and calm down. He then took Mrs. Tucker’s hand, and they retreated into their home.

A few days later, Mr. Tucker saw defendant in his driveway. He and Mrs. Tucker waked over, trying to “make peace.” Mr. Tucker told defendant that while they did not have to be friends, they were neighbors and should be “amicable.” Defendant began yelling and cursing; he again called Mrs. Tucker a “fucking bitch” and challenged defendant to a fight. This caused Mr. Tucker concern for his and his wife’s safety.

In May 2024, Mr. and Mrs. Tucker were in their backyard when their dog saw

a squirrel and began barking. Before Mrs. Tucker could quiet the dog, defendant yelled from the other side of the fence, “Shut the fuck up.” Mr. Tucker then overheard defendant tell his girlfriend that she “go over there and kick her ass,” referring to Mrs. Tucker.

On the afternoon of July 13, 2024, Mr. Tucker received a phone call from Mrs. Tucker who had gone out to their backyard to sit with a friend and observed the middle finger display hanging from the trees facing their house. He described Mrs. Tucker as very upset. As Mr. Tucker was out of state and Mrs. Tucker did not feel safe alone, some of her friends stayed with her. Mr. Tucker testified that he had hoped that defendant’s animosity would “blow over,” but this incident convinced him that they had to press charges as they both feared for their safety. On July 19, 2024, Mrs. Tucker filed a harassment complaint against defendant relating to the middle finger display.

On July 20, 2024, Mr. Tucker was in his backyard with his dog. When the dog barked, defendant yelled over the fence, “Shut up. Gunther” referring to the dog by name.

On February 7, 2025, as Mr. Tucker was leaving his home and walking to his car he saw defendant in his driveway. This was after Judge Lucas entered the October 10, 2024, no-contact order, so Mr. Tucker kept his head down to avoid interacting with defendant. As he backed his car out of his driveway, Mr. Tucker noticed

defendant through his rear-view mirror walking down his driveway toward him, appearing to be saying something to him. Because his car windows were up, Mr. Tucker did not hear what defendant was saying but when he returned home, he checked his ring camera and there was video of the encounter. At trial, the videos were marked S-2 and S-3 and played without objection.

The State then called Valera Tucker who testified that for the first few years living next door to defendant they had a “friendly” relationship. She described the July 4, 2023, incident when defendant drove by her home then stopped and asked her, “What the fuck are you looking at?” This was the first negative interaction she had with defendant, but it came after the tree trimming incident defendant had with Mr. Tucker. Mrs. Tucker walked up to defendant and asked, “Are you OK? We are concerned about you.” Defendant responded with a demeaning comment about her husband. When Mr. Tucker walked over, she confirmed that defendant challenged him to a fight.

On July 6, 2023, Mr. Tucker told his wife that he wanted to approach defendant to “make peace.” Mrs. Tucker did not think that was a good idea because defendant had already threatened him and seemed “unhinged.” She accompanied Mr. Tucker and described how defendant “just flipped” when Mr. Tucker suggested he wanted peace. Defendant came within six inches of her before calling her a “fucking bitch.” When Mr. Tucker told defendant not to talk to his wife like that, defendant again

challenged him to a fight.

Mrs. Tucker then described the May 2024 incident when defendant yelled for their dog to “shut the fuck up” and then told his girlfriend to kick Mrs. Tucker’s ass, which terrified her.

Mrs. Tucker then testified that on July 13, 2024, her husband was out of town and a friend came to visit. When they went to the back yard the friend noticed the middle finger display. Mrs. Tucker then noticed defendant peering over the fence, waiting for her reaction. This terrified her because of his level of obsession and prompted her to call police. Mrs. Tucker asked her friend to take photos and identified S-1 as the middle finger display and S-3 showing defendant looking over the fence standing under the display.

Mrs. Tucker testified that on August 3, 2024, defendant was pulling out of his driveway when he rolled down his window and screamed, “Fuck you. You are a fucking bitch. Go fuck yourself.”

Trial resumed on May 8, 2025. After the State rested, the defense called Darryn Murphy who testified that she occasionally resided with defendant. Murphy identified five photos (D-1 through D-5) taken October 30, 2023, showing trees that she claimed had been cut by the Tuckers. When shown a photo of the foam finger display, Murphy admitted that it was her idea to hang it in the tree, and she discussed it with defendant before doing so. Murphy explained that they hung it because they

were angry over the tree-cutting and it was only there for 20 minutes until the police responded.

Murphy also testified that the Tuckers allowed their dog to bark for 15 to 20 minutes at a time, and she had directed comments to the dog to be quiet using a word that was “not nice.”

On cross-examination, Murphy testified that she is engaged to defendant and acknowledged that she had discussed the middle-finger display with him and had hoped that the Tuckers “would be a little upset by it.” Murphy also recalled defendant saying, “shut the fuck up” to the Tucker’s dog but denied that defendant ever told her to “kick Mrs. Tucker’s ass.”

Defendant then testified that he is 60 years old, has lived at 134 Church Street since 1995, and works as a landscaper. Defendant identified D-1 through D5 as photos of trees he planted in 2005 or 2006. Defendant recalled Mr. Tucker approaching him to ask about trimming his trees but didn’t think the request was “justified” because Tucker only cut his grass “once a month if that.” Even though defendant was a landscaper, he did not trim or cut trees and estimated it would cost \$3,500 to hire a tree service, which he did not have. Defendant testified that because Mr. Tucker did not take care of his own property “it was beneath me to even engage with him on such a conversation.” Defendant conceded that his response to Mr. Tucker was “hostile” and when Mr. Tucker remarked that defendant didn’t have to

get so agitated, he told him to “get out of my face.”

Defendant admitted that two weeks later, as he was driving home, he saw Mrs. Tucker and believed she was “glaring” at him. He then asked her, “what are you looking at?” When he got out of his truck, Mrs. Tucker asked why he was so vulgar to her husband. Defendant claimed that he refused to have a conversation with her although he later acknowledged he was “quite vulgar” towards her. Defendant then spontaneously addressed Judge Lucas, stating he was “provoked” by the Tuckers and suggested that his hostility toward the Tuckers was caused by their failure to control Gunther’s barking “for years.”

Defendant acknowledged that when Mr. Tucker asked him about trimming his trees, some branches were overhanging onto the Tucker property by approximately 8 to 10 feet. Defendant and Darryn Murphy were not home when the trees were trimmed and when they returned, defendant was upset because they were trimmed beyond the Tucker property line and the job was done “unprofessionally.”

The next morning, defendant saw Mr. Tucker and “called him a few words.” Mr. Tucker did not respond. When asked about the middle-finger display, defendant acknowledged that “it was a message I wanted to send.” When asked if he intended to annoy or upset the Tuckers by hanging the display, defendant responded, “Yes sir I most certainly did. Yes. I’m not going to lie.”

Defendant acknowledged directing the “F word” at Mrs. Tucker on August 3,

and again on September 2, 2024. As to the incident captured on the Tucker ring camera, defendant admitted calling Mr. Tucker a “female body part,” and acknowledged that the incident took place after the no contact order had been entered. When asked if he intended for Mr. Tucker to hear his comment, defendant replied, “I didn’t care if he did or didn’t.”

On cross-examination, defendant retreated from his initial suggestion that Mr. Tucker was asking him to pay for the tree trimming and now testified that Tucker had offered to split the cost. Defendant claimed not to recall whether Mr. Tucker simply requested a referral for a tree-trimming service but did not deny that he did so. Defendant denied ever telling Mr. Tucker that he was going to kick his ass but when asked if he said anything along those lines, he said that he didn’t believe so.

On the July 4, 2023, incident, defendant acknowledged he “probably” asked Mrs. Tucker, “What the fuck are you looking at,” although she had said nothing to him. Defendant also admitted he probably called Mrs. Tucker a “fucking bitch” but claimed he did not recall challenging Mr. Tucker to a fight.

As to the next encounter, defendant acknowledged that the Tuckers were trying to make peace with him but again claimed he did not recall calling Mrs. Tucker a fucking bitch or challenging Mr. Tucker to a fight.

As to the May 24, 2024, incident, defendant again claimed he did not recall, but did not deny, telling Ms. Murphy to kick Mrs. Tucker’s ass. Defendant admitted

staring over the fence at Mrs. Tucker when she first noticed the middle-finger display and calling Mr. Tucker a “fucking pussy” on the ring camera incident.

After the defense rested, Judge Lucas reserved decision. Both parties submitted briefs and written summations. On June 5, 2025, the judge read a lengthy decision into the record. He first discussed Sgt. Dykstra’s testimony. When he responded to the Tucker residence on July 13, 2024, Dykstra found Mrs. Tucker “visibly upset . . . crying . . . [and] trembling.”

The judge summarized the testimony of all the witnesses and reviewed the elements of the harassment statute. He then found that in hanging the middle-finger, defendant acted with the intent to harass the Tuckers and that defendant admitted that the hanging of the display was done to annoy them. Additionally, the judge found that defendant’s actions had the effect of causing alarm to the Tuckers. Relying in part on Sgt Dykstra’s testimony, who he found very credible, the judge noted that Mrs. Tucker was visibly upset, crying, scared, and trembling.

The judge found the Tuckers credible and rejected defendant’s argument that the display was protected free speech under the Constitutions of the United States and State of New Jersey. He noted that defendant’s actions took place in the backyard of the Tucker home which he described as a “sacred place” where people have an expectation of privacy.

Referencing all of the individual incidents, the judge found defendant engaged

in a course of conduct with a purpose to harass that resulted in the Tuckers feeling afraid and unsafe in their own home. The judge noted that defendant admitted that he chose to communicate with the Tuckers using offensive and vulgar language.

The judge sentenced defendant to a total of \$1,000 in fines and probation for one year. Defendant filed a timely notice of appeal and now raises the following points:

POINT ONE

THE STATEMENTS AND EXPRESSIONS OF MR. CHRISTIANSON ARE PROTECTED SPEECH PURSUANT TO THE CONSTITUTIONS OF THE UNITED STATES AND STATE OF NEW JERSEY AND CANNOT BE MADE CRIMINAL SIMPLY BECAUSE HIS NEXT DOOR NEIGHBORS DO NOT LIKE THEM

- A. The hanging of the depiction [sic] of a foam hand with the middle finger extended in trees located on defendant's property is protected speech and cannot, even under the broadest interpretation of N.J.S.A. 2C:33-4 (a), constitute a violation of that statute and be made criminal behavior because that communication is not likely to cause annoyance or alarm nor is made with the intent to harass.
- B. Complaint 5454 from Gabriel Tucker as complaining witness alleging six (6) or seven (7) expressions of defendant over a period of four hundred forty-seven (447) days as constituting a violation of N.J.S.A.2C:33-4(c) fails to establish grounds for conviction [sic] under Constitutional and statutory grounds

POINT TWO

DEFENDANT COMPLIED WITH THE COURT'S ORAL ORDER TO HAVE NO CONTACT WITH THE COMPLAINING WITNESSES AND THE ALLEGATIONS BY MR. TUCKER THAT DEFENDANT VIOLATED THE ORDER, OF WQJCH HE WAS FOUND NOT GUILTY, WAS NOTHING MORE THAN A FEEBLE ATTEMPT TO PORTRY DEFENDANT IN A BAD LIGHT AND SHOULD BE VIEWED BY THIS COURT AS SUCH .

POINT THREE

DEFENDANT'S MOTION AT THE CONCLUSION OF THE STATE'S CASE FOR A DIRECTED VERDICT OF NOT GUILTY, OR JUDGMENT OF ACQUITTAL, WAS APPROPRIATELY MADE AND SHOULD HAVE BEEN GRANTED.

POINT FOUR

THE SENTENCE IMPOSED UPON DEFENDANT, ESPECIALLY THE ORDER OF PROBATION FOR ONE YEAR WAS EXCESSIVE and EVEN IF DEFENDANT IS FOUND GUILTY THE IMPOSITION OF PROBATION SHOULD BE VACATED AND THE MONENTARY FINE LESSEned

II.

At a trial de novo, this court makes its own findings of fact and conclusions of law but defers to the municipal court's credibility findings. State v. Ross, 189 N.J. Super. 67, 75 (App. Div.), certif. denied, 95 N.J. 197 (1983). This court must give due, although not necessarily controlling regard to the opportunity of the municipal court judge to assess the credibility of the witnesses. State v. Johnson, 42 N.J. 146, 157 (1964).

At the outset, this court defers to and adopts the finding by Judge Lucas that both Mr. and Mrs. Tucker testified credibly. I add only that both witnesses displayed a firm recall of the facts and were not challenged on cross-examination by experienced and skilled defense counsel.

Although Judge Lucas did not make a specific credibility determination as to defendant's testimony, this court finds that when asked about the middle-finger display, defendant was truthful in acknowledging that he intended to annoy or upset the Tuckers by hanging the display. However, on other critical parts of his testimony, defendant was evasive, demonstrated selective recall, and some of his responses were outright false. Defendant's acknowledgment that he "probably" called Mrs. Tucker a "fucking bitch" was truthful however his claim that he did not recall challenging Mr. Tucker to a fight on two occasions or suggesting that his girlfriend kick Mrs. Tucker's ass, was not. This court finds that Mr. Tucker's testimony that he initially

approached defendant for a referral for someone to trim the trees was truthful. Defendant's first version of that encounter, that Mr. Tucker wanted defendant to pay for the entire job, and his second, that he proposed to split the cost, were not.

Defendant first argues that his statements and expressions are protected speech under the First Amendment. Relying on State v. Burkert, 231 N.J. 257 (2017), defendant maintains that even if his statements are "crude, obnoxious, boorish, childish or even nasty," they are constitutionally protected and cannot be criminalized simply because his next-door neighbors did not like them.

Defendant's reliance on Burkert is misplaced. Burkert was employed as a corrections officer who retaliated against a fellow corrections officer, Halton, after Halton's wife made online comments Burkert found insulting. Burkert obtained a photograph from Halton's wedding which he copied and made two flyers, writing lewd dialogue in speech bubbles over the faces of the bride and groom. Several copies of the flyers were left at the jail where Halton and Burkert worked, and Halton identified the handwriting on both flyers as Burkert's. Burkert later admitted to creating the flyers.

Halton filed criminal harassment charges against Burkert. The municipal court found Burkert guilty as he made and circulated the "lewd and obnoxious" flyers to "seriously annoy" Halton. After de novo review, the Law Division also found Burkert guilty. The Appellate Division reversed, finding that the commentary

Burkert added to the wedding photo was constitutionally protected speech. State v. Burkert, 444 N.J. Super. 591, 594 (App. Div. 2016). The Supreme Court granted the State's petition for certification and affirmed. The Court held that "[t]hat the primary thrust of N.J.S.A. 2C:33-4(c) is not to interdict speech but rather conduct" Burkert, 231 N.J. at 273. The Court construed the terms "any other course of alarming conduct" and "acts with purpose to alarm or seriously annoy" as repeated communications directed at a person that reasonably put that person in fear for his safety or security or that intolerably interfered with that person's reasonable expectation of privacy. Id. at 284-85.

This case is clearly distinguishable from Burkert as the conduct at issue here was not mere words: defendant threatened to fight Mr. Tucker on more than one occasion; told his fiancée to fight Mrs. Tucker; called both Tuckers offensive names multiple times; reacted angrily, hurling crude and offensive language at them when they attempted to deescalate the conflict and restore a peaceful, neighborly relationship; and hung an obscene display facing their backyard. Defendant's communications and behavior constituted harassment pursuant to N.J.S.A. 2C:33-4(a) as the communications were "offensively coarse language" used in a "manner likely to cause [plaintiff] annoyance or alarm."

Defendant next argues that the middle-finger display cannot constitute harassment as it is not likely to cause annoyance or alarm and was not done with the

intent to harass.

The display of the middle finger as an expression of defiance or contempt dates back to ancient Greece. See Robbins, Digitus Impudicus: The Middle Finger and the Law, 41 U.C. Davis L. Rev. 1403, 1413 (2008). The anthropologist, Desmond Morris described the middle finger display as “one of the most ancient insult gestures known.” Gestures: Their Origins and Distribution (1979).

Defendant’s argument that the display was “not done with the intent to harass” is completely undermined by his admission at trial that his intent in hanging the display was “a message I wanted to send.” When asked by his counsel whether he intended to annoy or upset the Tuckers, defendant responded, “Yes sir, I most certainly did.” Defendant’s claim that the display “was not likely to cause annoyance or alarm,” is belied by Mrs. Tucker’s testimony which this court accepts as truthful, that upon seeing it she was crying, shaking and terrified. Sergeant Dykstra corroborated Mrs. Tucker’s testimony that the display upset her.

Defendant notes that the statute of limitations for a disorderly persons offense under N.J.S.A. 2C:1-6(b)(2) is one year, and Mr. Tucker’s complaint was filed on October 29, 2024, 477 days after the first incident. However, the harassment statute proscribes a continuing course of conduct. In State v. Diorio, 215 N.J. 598, 615 (2014), the Court observed that continuing offenses are expressly recognized in N.J.S.A. 2C:1-6(c) and “[t]o the extent that a given offense does in fact proscribe a

continuing course of conduct, no violence is done to the statute of limitations.”

Defendant next argues that because Judge Lucas determined that defendant’s conduct on February 7, 2025, did not violate the no contact order, the other allegations should be viewed as an attempt to portray defendant in a “bad light.” Defendant cites no authority in support of this argument. Moreover, this court is free to differ with the findings of the municipal court as long as the de novo review does not “subject defendant to a conviction after an acquittal, or to the possibility of conviction of a more serious offense, or of an offense carrying a higher penalty, we find no double jeopardy or due process violation.” State v. Kashi, 180 N.J. 45, 48 (2004).

While Judge Lucas determined that defendant’s actions on February 7, 2025 did not violate his no contact order, that finding does not prevent this court from considering defendant’s actions as part of a continuing pattern of conduct. Thus, this court will consider Mr. Tucker’s credible trial testimony:

I was leaving my house, I was going for a haircut. And I saw George was in his driveway and you know respecting the Court’s no contact order of provoking him, as well as the fact I don’t really want to interact with him at all, I’m just keeping my head down and I get in my car and I start backing out. And as I am backing out I see him walking down his driveway towards me. And I’m not engaging, I’m not doing anything so I just continue and I go and I look through my rear view mirror and you know, as much as you can through the rear view mirror there was eye contact and then I just see him mouthing things. And I didn’t know what he was saying, I couldn’t hear him, I’m in my car.

In addition, the ring camera video confirms that defendant was standing by his truck while Mr. Tucker entered his car and began walking down to the end of his driveway as Tucker was driving away. Finally, this court also considers defendant's testimony admitting that he said, "what a fucking pussy," referring to Mr. Tucker. Defendant's claim that he did not say it directly to Tucker but was talking to himself is simply not credible.

Defendant next argues that Judge Lucas erred in denying his motion for a directed verdict of not guilty or an acquittal and urges this court to do so now. State v. Cerefice, 335 N.J. Super. 374 (App. Div. 2000) holds that in conducting a trial de novo, this court does not perform an "appellate function" reviewing the municipal court's decisions but rather conducts an independent fact-finding. Id. at 383. Just as the State is required to once more prove its case beyond a reasonable doubt, this court has "the opportunity to consider the matter anew, fresh, and for a second time." Kashi, 180 N.J. at 746.

Defendant maintains that the sentence imposed by the municipal court of \$1,000 fine and one year probation is excessive and, in the event defendant is again found guilty, the fine should be lessened and the probationary sentence "vacated." Given that defendant continued his pattern of harassment after the first complaint was filed and was aware that his actions would be scrutinized by the court, a probationary sentence is appropriate. A \$1,000 fine is not excessive.

After de novo review, the State has proven defendant's guilt on both harassment complaints beyond a reasonable doubt. The sentence imposed by Judge Lucas is reimposed.