

**OCTOBER 2, 2025**

MICHAEL A. GUADAGNO, J.A.D. (ret. &amp; t/a)

E-FILED WITH THE COURT

NOT FOR PUBLICATION WITHOUT THE  
APPROVAL OF THE APPELLATE DIVISION

STATE OF NEW JERSEY,

Plaintiff-Respondent,

v.

ANDREY BORISOV,

Defendant-Appellant.

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION – CRIMINAL PART  
MONMOUTH COUNTY

Municipal Appeal No. 25-021  
Manalapan Twp. Municipal Court (1326)  
Summons No. S-2024-000266

**OPINION**

Trial de novo September 29, 2025 – Decided October 2, 2025

Andrey Borisov, defendant, self-represented

Raymond S. Santiago, Monmouth County Prosecutor for the State  
(Merissa Shebell, Legal Intern).

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

Defendant Andrey Borisov seeks de novo review of the May 19, 2025,  
judgment of the Manalapan Municipal Court finding defendant guilty after trial of  
defiant trespass, N.J.S.A. 2C:18-3(b).

I.

The following facts are gleaned from the record before the municipal court.  
On November 1, 2024, defendant was issued a summons charging him with  
remaining in the Manalapan branch of the Monmouth County Library after being

ordered to leave.

Defendant made his first appearance in municipal court on November 18, 2024. Defendant spoke English and appeared to understand everything that was said to him. As the municipal judge was informing defendant of the charges and his rights, he continually interrupted her. Defendant initially claimed he had no income and requested appointed counsel. Later, defendant indicated that he would be representing himself. When defendant continued to interrupt the judge, she advised him that she might have to remove him from the courtroom if he continued.

On December 16, 2024, the judge again reviewed the charges against defendant. Although defendant had no apparent problem speaking and understanding English, an interpreter was made available to him. The judge proceeded to review the charges again through the interpreter. When defendant requested that counsel be appointed, the matter was adjourned for defendant to produce documentation of his income.

On December 30, 2024, defendant presented a form indicating that he earned “absolutely no money” but the judge noted that his tax return showed income of over \$41,000. Ultimately, the judge appointed the public defender to represent defendant.

Trial began on May 19, 2025. The State called Ronald McLurkin who testified that he was employed by the Monmouth County Board of Elections. On November 1, 2024, McLurkin was supervising early voting at the Manalapan Library. At

approximately 10:15 a.m., Gloria Acker, a poll worker, told McLurkin that someone had become “problematic” and was not complying with instructions on how to vote. When McLurkin walked to the hallway where the disturbance was, a security guard identified defendant as the person causing problems and requested that police be called. Defendant had been asked several times to go to the back of the line if he wanted to vote; he refused and sat in an area reserved for the handicapped.

On cross-examination, McLurkin stated that he observed defendant walking around in the front of the line and told him that if he wanted to vote, he would have to go to the back of the line; if he didn’t, he would have to leave the area.

The State then called Manalapan Township Police Sgt. Phillip Accatatta who testified that at approximately 10:15 a.m., on November 1, 2024, he responded to a report that someone was “causing a disturbance . . . [and had] gotten aggressive with poll workers and security.” When Accatatta arrived, he observed between 150 to 175 people waiting in line to vote, with the line extending past the front door of the library. When he entered the library, Accatatta observed defendant sitting in a chair and asked him if he wanted to vote. When defendant responded affirmatively, Accatatta told him several times he would have to go to the end of the line. Instead of following the officer’s direction, defendant took out his cell phone and began to record him. Accatatta then told defendant he would have to leave and if he refused, he would be arrested. Defendant refused to leave and was arrested for trespass.

On cross-examination, Accatatta acknowledged that defendant told him he would leave but did not. Although the State did not introduce the officer's bodycam, defendant's counsel marked as a joint exhibit ( J-1) and played the video.

After the State rested, defendant testified that he went to vote that day at the library. Defendant denied attempting to cut the line and sat in the chair because he wanted to vote "after the line is down." When the officer asked him to leave, defendant responded that he did not "obstruct" or "disturb" anyone and asked the officer to "write down what he was saying to me" because he wanted to report what the officer was saying. The next day, defendant returned and voted with no problem because there was no line.

On cross-examination the municipal prosecutor asked defendant if the police officer had asked him to go to the end of the line. Defendant claimed that he did not recall.

After the defense rested the municipal judge rendered a decision first noting that the Manalapan library was being used that day as a polling place for elections and described voting as "a sacred and important process in the United States." The judge found that "defendant was given numerous opportunities to lawfully comply with the process . . . set by the Board of Elections. . . [but] chose not to." The judge determined that there was no question that defendant remained at the library after being asked to comply with the rules. The judge found that the bodycam video

confirmed that defendant was “aggressive” and “difficult” and he was guilty of defiant trespass.

Although defendant was represented by counsel, he interrupted the judge several times as she was reading her decision. At one point the judge told defendant he would be removed from the courtroom if he continued to interrupt her.

The judge sentenced defendant to a 20-day jail term but suspended it on the condition that he submit to a psychiatric evaluation and not return to the library. Defendant filed a timely notice of appeal.

## II.

At trial de novo, defendant argued that library personnel initially accused him of trying to cut the long line of people waiting to vote. Defendant denied doing this and claimed he was sitting in the chair while waiting for the line to “disperse.” Defendant then claimed that he suffered from a “mental condition” and was not in the best of health and he tried to explain this to the municipal prosecutor. Defendant was advised that the trial de novo was restricted to testimony and evidence produced before the municipal court and I could not consider his testimony about a mental condition if it was not presented before the municipal court.

The right to vote freely for the candidate of one's choice is of the essence of a democratic society. Reynolds v. Sims, 377 U.S. 533, 555 (1964). Indeed,

no right is more precious in a free country than that of having a voice in the election of those who make the laws

under which, as good citizens, we must live. Other rights, even the most basic, are illusory if the right to vote is undermined.

[Wesberry v. Sanders, 376 U.S. 1, 17 (1964)].

However, as early as 1890, New Jersey enacted legislation regulating the area in and around voting sites limiting “electioneering” within 100 feet of the polling place. See L. 1890, c 231, § 63.

When a venue is being used as a polling place, such as the library here, there are certain restrictions that do not apply in the absence of voting activity. For example, New Jersey election laws N.J.S.A. 19:34-6, -7, and -15, ban all expressive activities within 100 feet of a polling place. These election-law statutes date back to 1930 when the Legislature added loitering and the distribution of printed material as prohibited activities within the exclusionary zone. See L. 1930, c. 187, PP 438-39, 447. “N.J.S.A. 19:34-6, -7, and -15 were adopted specifically to ensure a minimal level of order and decorum and to reduce the potential for fraud, coercion, and confusion outside polling precincts on Election Day.” In re Atty General's "Directive on Exit Polling: Media & Non-Partisan Pub. Interest Grps., 200 N.J. 283, 302 (2009). Our election laws provide that “any interference with a voter near a polling place, whatever the motivation, whether political, nonpartisan or charitable, is too great an infringement on the constitutional right to vote.” Id. At 310.

Defendant was charged with “remaining inside the library after being told to

leave” in violation of N.J.S.A. 2C:18-3B, which provides in pertinent part:

A person commits a petty disorderly persons offense if, knowing that he is not licensed or privileged to do so, he enters or remains in any place as to which notice against trespass is given by:

- (1) Actual communication to the actor; or
- (2) Posting in a manner prescribed by law or reasonably likely to come to the attention of intruders; or
- (3) Fencing or other enclosure manifestly designed to exclude intruders.

While this court reviews the municipal court's decision de novo, it is required to defer to credibility findings of the municipal judge. State v. Johnson, 42 N.J. 146, 157 (1964). Unfortunately, the municipal judge determined that there was no need to assess the credibility of the witnesses because of the bodycam video.

This court now determines that Ronald McLurkin and Sgt. Accatatta testified credibly. Both witnesses displayed a firm recall of the events, and neither was challenged on cross-examination. Accatatta’s testimony was extensively corroborated by the bodycam video. Defendant’s statement during cross-examination that he did not recall whether he was told to stand in the back of the line is not credible.

The bodycam video begins with Sgt. Accatatta leaving his police vehicle and approaching the library. Another officer tells Accatatta that defendant came in

through the back door and “tried to skip the whole line and became agitated with the security staff.” As Accatatta enters the library a long line of voters can be seen running almost to the door. He then speaks with a representative of the Board of Elections who states that that defendant entered the library through the wrong door and then tried to enter the room when voting was taking place without waiting in line. When she directed him to go to the end of the line, “he refused to do that.” She said that defendant then began videotaping them with his phone. A member of the security team stated that defendant became “confrontational.”

Defendant was seated a few feet away from where this discussion was taking place. When Sgt. Accatatta approached defendant, he remained seated and was videotaping the officer with his camera. The officer calmly asked defendant if he was looking to vote and defendant responded that he was. When told that he would have to go to the back of the line, defendant shook his head and replied that he did not want to stand in the line. Sgt. Accatatta told defendant that the representatives from the Board of Elections said that he was obstructing the election by being confrontational, by making comments and by making video recordings. The officer told defendant, “If you want to vote, I want you to vote.” Defendant interrupted the officer and stated, “Well I disagree with the people on the Board of Election.” Defendant then asked, “Are these people democrats?” and later, “Are they republicans?”



While Accatatta was clearly attempting to assist defendant to vote, defendant appeared to ignore him and repeatedly interrupted him, while continuing to videotape him. Finally, defendant was asked if he wanted to get in line to vote and he responded, "I want to sit here." At the request of the Board of Elections, defendant was then asked to leave the library. Accatatta told defendant if he did not leave voluntarily, he would be arrested. The officer added "I don't want to do that, I wholeheartedly don't want to do that." Instead of leaving, defendant continued to sit in the chair videotaping the officer. When Accatatta repeated that he did not want to arrest him, defendant replied, "Go ahead, arrest me." Defendant was arrested and charged with trespass.

This court is compelled to note that throughout his discussion with defendant Sgt. Accatatta was extremely cordial and accommodating. Also, the area where defendant was sitting was only a few feet from the line of people waiting to vote. Everything defendant was saying was audible to the voters in line.

Based on the credible trial testimony of Ronald McLurkinn and Sgt. Accatatta, the State has proven the elements of defiant trespass. Assuming defendant came to the library intending to vote, he entered from the back door, appeared to be attempting to enter the rooms where votes were being cast without waiting in line and refused repeated instructions from security personnel, representatives of the Board of Elections and the police to go to the back of the line. Defendant sat in close proximity

to the line of people waiting to vote and was argumentative and combative, making inappropriate comments including questioning the political affiliation of members of the Board of Elections within earshot of the voters. Defendant was given ample opportunity to leave voluntarily but refused, remaining there without any license or privilege to do so. That is all that is required to support a conviction under N.J.S.A. 2C:18-3(b). State v. Brennan, 344 N.J. Super. 136, 143-44 (App. Div. 2001). As in Brennan, “the charge of defiant trespass turns not so much on . . . defendant's conduct, but rather, on the reasonableness of the police actions and defendant's response thereto.” Id. at 143. “[I]f the police are performing a law enforcement function in an appropriate manner, i.e., not with an excessive use of force, then a citizen is obligated to comply with the directions of the police.” Ibid.

This court must, as part of the trial de novo, sentence the defendant anew as provided by law unconstrained by the sentence imposed in the municipal court. R. 3:23-8(e). The municipal judge sentenced defendant to a 20-day jail term but suspended it on the condition that he submit to a psychiatric evaluation and not return to the library. There was no evidence of any mental disability presented before the municipal court and this court does not feel that a jail term is appropriate based on the facts of this case.

Defendant is sentenced to a \$500 fine, \$33 in court costs, a \$50 Victims of Crime Compensation Board penalty, and a \$75 Safe Neighborhoods Services Fund

assessment. These fines and assessments are due within 10 days of the date of this opinion.

Finally, because this trial de novo is being disposed of by written opinion, and defendant has not challenged his sentence, defendant is expressly advised of his right to appeal under Rule 3:21-4(h), and if he is indigent counsel may be appointed to represent him. See, State v. Taimanglo, 403 N.J. Super. 112, 121 (App. Div. 2008). Defendant's appeal from this judgment must be filed within 45 days of the date of the order accompanying this opinion.