
SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-003576-22

STATE OF NEW JERSEY,

Plaintiff,

v.

SHAKIRA LASISI,

Defendant-APPELLANT.

CRIMINAL ACTION

ON APPEAL FROM

SUPERIOR COURT, LAW DIVISION - CRIMINAL PART
BURLINGTON COUNTY

MUNICIPAL COURT APPEAL #16-22
APPEAL FROM BURLINGTON TWP
S-2021-332-0306

Honorable Mark P. Tarantino, J.S.C.
Sat below

BRIEF AND APPENDIX
FOR
APPELLANT SHAKIRA LASISI

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STATEMENT OF THE CASE

Shakira Lasisi (herewith in “defendant”), defendant, appeals from a judgement of a downgrade N.J.S.A. 2C:12-3(b) conviction on de novo review, April 24, 2023. The conviction stems from three of the plaintiff’s witnesses (1) Gregory Ackles (herewith in “Ackles”), Assistant Superintendent I Corrections of New Jersey’s Juvenile Justice Commission, (2) Ackles “friend”, convicted felon and now exonerated, Raashid B. Adowa (herewith in “Adowa”), (3) Ackles, unidentified “family member” Rodquita Dallad (herewith in “Dallad”), and a series alleged incidents that took place on November 2, 2021, November 7, 2021 and November 10, 2021. It was ultimately the sole testimony of Ackles that led to the plaintiff’s ultimate conviction of the defendant as guilty and guilty on de novo review.

Lasisi argues the order finding defendant guilty and guilty on de novo review, N.J.S.A. 2C:33-2A based on, (1) violation of court Rules, 3:23, 8:11-1, (2) plaintiff’s distorted version of the facts, (3) defendant, Lasisi, did not engage in improper behavior; fighting or threatening, or in violent or tumultuous conduct; (4) defendant’s conduct had no capacity to cause public inconvenience, annoyance or alarm or recklessly creating a risk thereof; (5) defendant is disabled from multiple capacities at the time of the incident; and (6) defendant in no capacity was at the

scene of the alleged incidents from November 2-10, 2023. The decision should be reversed; attached are the supporting reasons and exhibits within this brief.

PROCEDURAL HISTORY AND STATEMENT OF FACTS¹

The pertinent procedural history and statement of facts in this matter are as follows:

Per the incomplete discovery documents from the Plaintiff, on November 7, 2021, unidentified caller Dallad, phoned Burlington Township Police Department stating the nature of her call was a female spit on her/brought uncle's truck back and female jumped out and started threatening Dallad with the incident type flagged as "fight" (AP 1²).

On the same day, Burlington Township Police incident details indicate, when patrols arrived, the defendant was onsite and complained that she was having issues with residents located at Ackles' home. Ackles' friend³, Adowa, surprisingly comes out of nowhere and confirms the nature of a separate verbal dispute between him and the defendant with both parties advised of their options to file complaints. The incident details indicate there were no further issues at the

¹ Procedural History and Statement of Facts are combined due to Appellant's ADA medical conditions [1T60:1, 1T63:1 -11/29/2022]

² [AP] means Appendix

³ [1T] represents the Municipal Court Trial transcripts. In the police details Adowa is notated as a friend of Ackles by defendant however Ackles testifies it is his nephew [1T21:23-26 – 11/29/2022]

time. (AP 2). However, unidentified Dallad is nowhere to be found or the nature of their dispute validated by Burlington Township Police, to advise both parties of their options to file complaints similarly to the alleged November incident between the defendant and Adowa. On November 7, 2021, defendant Lasisi, was not in the area and furthermore, her vehicle was not operable at the time.

Defendant Lasisi denies the dispute with convicted felon, now exonerated, Adowa, on November 7, 2021. The alleged dispute with Adowa, in November 2021 occurred where the defendant's biological father, A. Lasisi, Sr. (herewith in "Lasisi Sr.") and his significant other, (herewith in "A. Lasisi") resides; they are the neighbors of the plaintiff's witness, Ackles. The defendant was not present on the day of the alleged dispute with Adowa⁴. The owners of the home are A. Lasisi and her daughter S. Lasisi (herewith in "S. Lasisi")⁵. The defendant is disabled, including on the alleged incident with her right foot in a half calf boot, as well as, her white BMW disabled and then inoperable. The defendant never complained about any of the family members in Ackles' dwelling as she did not know anyone residing there and she did not reside at the family's home. Lasisi had an encounter

⁴ Burlington Township Police Report does not capture Lasisi Sr. in their report; he enters in as witness and alibi at trial [1T39:23-24 – 11/29/2022], Burlington Township incident details does not capture defendant's white BMW only a Blue Ford pick up truck at the time of the fighting incident with Adowa

³ Homeowner information is located online at <https://wipp.edmundsassoc.com/Wipp/?wippid=0306>; subpoena for S. Lasisi was submitted as requested by Judge Lange and to the trial court

with Adowa in September 2021 and wanted to file a complaint against Adowa for his violent behavior, however she was denied and the issue dismissed immediately. At no point and time did the defendant throw a white bag at him, saying “he aint shit, fuck you, turn rap music up loud with lyrics that says specifically, “Kill that Nigger”. Kill the Nigger, proceed to call him a Nigger and stated that the defendant would fuck him up”. Ackles proclaims an argument occurred with the defendant and proceeded home without calling the police. Then on the next following incident, he states the defendant came back in her BMW⁶.

On November 8, 2021, a Certification in Support of Probable Cause was signed by Ackles, his typed statement, and Complaint Information Form with a detail of the defendant’s name, address, phone number, date of birth, driver’s license number and non-applicable vehicle details was submitted to Burlington Township Police Department. Following Ackles, on November 10, 2021, Burlington Township Police Ptl. David A. Long #77 provided his report, report submission and conclusion of his involvement in the matter. (AP 10-12)

The plaintiff issues a complaint summons, 0306 S 2021 000332, certifying or on oath defendant in violation of original charge, 2C:12-3B, certified by Ofc D

⁶ BMW information is missing, Ackles testifies he gave the police defendant vehicle information and license plate details [1T30:1-5 – 11/29/2022]

Long. defendant's first appearance date was scheduled for December 13, 2021, signed by Judicial Officer, Rosa Henry.

From November 2 through November 10, 2022, defendant was not in the vicinity of the series of incidents alleged by Adowa, the defendant was working her part-time drive share business with her minor child, preparing for travels to her home state Virginia, she is disabled, and her car was having troubles with constant contact to AAA and BMW Maintenance. Her vehicle ultimately became disabled where the defendant had a loaner vehicle from her dealer's maintenance department on Ackles' alleged incident of November 10, 2021. The defendant's vehicle(s) have the capability of track defendant's whereabouts⁷, as most foreign vehicles. However, Burlington Township Police Department and the plaintiff did not conduct an investigation, obtain documents proving their claim against the defendant prior to and/or after issued the complaint blaming the defendant.

⁷ Plaintiff could have submitted a subpoena to BMW requesting the trace records of the vehicle to prove "beyond reasonable doubt". In subpoena, defendant asks for Ackles Mercedes Benz vehicle information for tracing. Lasisi Sr informs the Municipal Court that no officer arrived at his property on November 2, 2021 or November 7, 2021 [1T47:1-17 -11/29/2022]; however, the police report incident details specifies they were dispatched and defendant was there, but defendant's white BMW details are missing. Ackles confirms on November 10, 2021 that she had her BMW and gave the police her license plate information that would trace back to the defendant [1T25:11-17 - 11/29/2022]. defendant did not have her car and was not in the vicinity at 1100 hours, she gave her vehicle to BMW Maintenance on November 10, 2021 and there were no dispatch details from the Plaintiff correlating with Ackles testimony of call 911 on November 10, 2021 [1T25:5-10 -11/29/2022]

SUPERIOR COURT PREPARATION FOR N.J.S.A. 2C:12-3B

On January 24, 2022, Burlington Superior Court issues a public zoom link for defendant's attendance on January 26, 2022; on same day, defendant asks the trial court for the time of the hearing and reschedule of trial. The trial court did not issue a response, however defendant conducted an outreach to the trial court official and with follow up to the trial court. The initial charge, 2C:12-3B, plaintiff issued against Defendant was then elevated to a Grand Jury Trial, February 2022. Lasisi submitted discovery evidence to the trial court, Burlington Superior Court, documenting her medical state, issues of jurisdiction and challenges within the elements plaintiff must prove beyond a reasonable doubt, proof of her whereabouts and vehicle information; the plaintiff agreed with Lasisi.

On April 13, 2022, defendant submits a motion to dismiss to the initial trial court, Burlington Superior, on the basis for lack of jurisdiction, improper venue, insufficient service of process, or failure to state a claim via NJ JEDS. (AP 14-26) On April 15, 2022, defendant checks the NJ Courts website and conducts a Municipal Court Case Search. The charge N.J.S.A. 2C:33-2A(1) was raised on NJ Courts public website. On April 21, 2022, defendant submits another motion to dismiss to the initial trial court informing of violations under Rule 4:4 of improper

service, sixth amendment, fourteenth amendment and Rule 1:4-8. defendant furthers the motion to dismiss relating to the sadism event mentioned in other current Appellate cases mentioning defendant (AP 14-26).

MUNICIPAL COURT PREPARTION FOR N.J.S.A. 2C:33-2A(1)

On May 5, 2022, defendant contacted New Jersey Office of Attorney Ethics requesting a historical list of Prosecutors presiding over the defendant's case, complaint process in efforts to ensure all documents were sent. The actual filing Prosecutor was Scott Coffina, however there were multiple changes and without knowledge to the defendant. On same day, the defendant receives a zoom hearing notice by email captioned, **5/10/2022 Burlington City/Twp. Municipal Court, State vs. Shakira Lasisi**⁸. On May 7, 2022, defendant sends the same letter furthering the motion to dismiss relating to the sadism event mentioned in defendant's current Appellate cases and adjournment request to Burlington Municipal Court. The defendant reaches out to confirm the status of the matter and current Prosecutor as of May 9, 2022. The Supervisor of Screening/Grand Jury Unit of Burlington County's Prosecutor's Office informs the defendant, AP Zimmerman downgraded the defendant's case to the Municipal Court with a new Prosecutor out of Camden County, Prosecutor Turner. The defendant contacted

⁸ Email notification is within the exhibits and redacted.

Prosecutor Turner and he did not respond. New Prosecutor, Dan Gee of Malamut was assigned shortly thereafter.

The presiding judge kept stating the incorrect charge, wanting the defendant to pled to a phantom charge of harassment related to the sadism event mentioned in defendant's other current Appellate cases instead of the downgraded charge, N.J.S.A. 2C:33-2A(1). Complaint and copy of the Judge Change Request was sent to the Supreme Court of New Jersey, Advisory Committee on Judicial Conduct was submitted.

On August 16, 2022, defendant receives a zoom hearing notice by email captioned, **8/16/2022 Burlington City/Twp. Municipal Court, State vs. Shakira Lasisi** On August 16, 2022, defendant submits a subpoena to the plaintiff's witness requesting his attendance and documentation, with a follow up to the Prosecutor and the Courts. Plaintiff and Ackles complied with attendance via subpoena but did not provide any evidence.

On September 6, 2022, defendant receives a zoom hearing notice by email captioned, **9/6/2022 Burlington City/Twp. Municipal Court, State vs. Shakira Lasisi**⁹. On September 19, 2022, defendant receives confirmation of hearing from trial court is scheduled as a mandatory in-person hearing with full knowledge of

⁹ Email notification is within the exhibits and redacted.

defendant's ADA illnesses and the Court's capability of holding hearings online via zoom captioned, **11/29/2022 Burlington City/Twp. Municipal Court, State vs. Shakira Lasisi**¹⁰. On November 27, 2022, she filed an ADA accommodation informing of her physical incapacities and of language barriers the Superior Court's ADA Coordinator. The defendant was informed Burlington Vicinage has two different ADA Coordinators and cold transferred the request to Burlington Municipal without informing the name of the ADA Coordinator; the defendant was denied her right to appeal the mandatory in-person session, compromising ADA Title II.

NOVEMBER 29, 2022 MUNICIPAL TRIAL

On November 29, 2022 trial occurs at Burlington Township Municipal Court; defendant found guilty of N.J.S.A. 2C:33-2A(1), disorderly conduct with fines assessed solely; jail sentencing and probation was subsequently imposed in retaliation. The plaintiff's Witness, Ackles, alleges on November 2, 2021 he was first threatened by an unidentified woman that was cutting his neighbor's grass, who through a white trash bag at him, started playing rap music very loudly, specifying lyrics starting with the word "nigger" as he was getting out of his car, specifying it was very dark outside. However, he does not call Burlington

¹⁰ Email notification is within the exhibits and redacted.

Township Police Department and shrugs it off as believing :she’s just having a bad day”¹¹. The next alleged incident on November 7, 2021, Ackles rushed home from church after Adowa phoned Ackles telling him about the alleged truck incident between Dallad, Adowa and the defendant¹². Ackles says, when he was now mowing his lawn, he was approached again by the unidentified woman who started calling him a “black motherfucker” and “you black nigger¹³”. He furthers his testimony to say, the unidentified woman told him, “I’m going to kill your black ass, you fucked with my father¹⁴”; but that he was never spoken to her father, just only his father’s significant other, A. Lasisi. He continues his statement of this unidentified woman’s response as, “Well, I’m going to kill your black fucking ass. I got my – I’m going to have my boys from Brooklyn come down and kill your fucking ass, you black nigger. You won’t fuck with my father again”.

In Ackles signed complaint and testimony, he contacted Burlington Township Police Department informing them that he had no idea who the person was on November 2 and November 7 of 2021; first shifting blame to an

¹¹ Municipal Court transcript of Ackles’ answer – [1T18:15-20 -11/29/2022], “Back in November, and I want to say it was November the 2nd because I was coming home from a basketball game, from refereeing. It was about 10 – about 10:15 at night and she was out cutting the grass. I got out – pulled in my driveway and got out of the car”

¹² Municipal Court transcript of Ackles answer – [1T21:23-25 -11/29/2022], “The next time I saw her was that Sunday, and I think it was the 7th. I was at church, got a call from my nephew who told me that there was a young lady out there. [1T24:4-8 -11/29/2022]

¹³ Municipal Court Transcript [1T24:14-17 -11/29/2022]

¹⁴ Municipal Court Transcript [1T24:21-22 -11/29/2022]

unidentified Burlington Township Police Officer. Ackles testified that he provided the police with the defendant's license plate number and vehicle description.¹⁵ Then he changes his narrative, shift blaming again by stating, on November 9, 2021, A. Lasisi approaches him, after the November 7, 2021 incident identifying the defendant while reassuring him it wasn't any of her children¹⁶.

Ackles changes his narrative, again, and confirms that although he has never seen the defendant before November 2, 2021, that he was the one identifying the defendant as the unidentified woman from the alleged incidents taking place on November 2, November 7, the November 10 signed complaint and then confirms he's presuming the encounter with A. Lasisi on November 9¹⁷; his November 8, 2021 signed complaint confirms (AP 10). It was not clear how he got the defendant's information. Furthermore, A. Lasisi did not testify in Court, nor was she or Lasisi Sr. questioned by Burlington Township police or subpoenaed by the plaintiff from November 9 2021 through November 29, 2022. The defendant didn't become aware of A. Lasisi as a potential witness until the day of trial November

¹⁵ Municipal Court Transcript [1T25:11-17 -11/29/2022]

¹⁶ Municipal Court transcript [1T27:11-16 -11/29/2022], "...your stepmother knocked on my door and apologized for your behavior, because what she said to me, and I'm going to quote her, "That is not my daughter, that's my husband's daughter. My children do not act like that, you know my children," which I do."

¹⁷ Municipal Court transcript [1T36:10-16 -11/29/2022], defendant asks, "...You indicated and accusing me, identified me, you indicated that I approached you on November 2nd, again November 7, presume my stepmother on November 9th and then again in regards to your signed complaint, you indicated in your signed complaint it was me for sure, correct?" Ackles replied, "Correct"

29, 2021. Specifically, A. Lasisi was never mentioned during the preliminary hearings, by the plaintiff and/or Ackles, and testimony was not captured providing she purports to have come to believe that defendant did what she is accused of doing¹⁸.

DE NOVO APPEAL PREPARATION

December 19, 2022, defendant signs the legal counsel prepared Notice of Municipal Court Appeal, Transcript and Motion for Stay forms to the initial trial court, Burlington Superior, for submission. On same day and per defendant's Counsel, sent and received a copy of the disposition inquiry (AP 98). December 22, 2022 counsel prepares Motion for Stay; client signs with signature and for court submission.

On January 11, 2023, defendant receives a virtual hearing for motion to stay hearing notice by email captioned, **01/31/23 Burlington City/Twp. Municipal Court**; defendant submits Americans with Disability Act accommodation request with substantiated medical documentation through legal counsel as instructed by trial court.

¹⁸ Plaintiff informed defendant should have objected via their appeal brief and she did; the Court overruled all of her objections based on excited utterance, and not being offered as hearsay so – [1T23:21-23 -11/29/2022]

On March 3, 2023 an ADA accommodation request was submitted to initial trial court in preparation of the motion to stay hearing and subsequently denied. On March 14, 2023, defendant submits a Request for Audio Records of Proceedings to the trial court with trial court responding on March 15, 2023, confirming its availability. On same day, defendant receives a virtual hearing for motion to stay hearing notice by email captioned, **04/11/23 Burlington City/Twp. Municipal Court**. March 20, 2023 defendant files complaint against Ackles and subsequently denied by Judge Lange.¹⁹

Per the instructions of Judge Lange from the September hearing and trial notification with Counsel, she sends a copy, listing all her witnesses and in preparation of trial. September 7, 2021, Burlington Municipal personnel confirms receipt and informed the trial is in-person²⁰. The trial court limited court access to a mandatory in-person trial. An ADA accommodation request was submitted to the Superior Court ADA Coordinator on November 27, 2021, as Burlington Municipal Court did not answer the phone nor was the name and/or contact information provided by the initial ADA Coordinator.

¹⁹ Omitted, document to Burlington Township Police Department was initially filed with a stalking charge but changed to harassment by Burlington Township Police Department then filed with Judge Lange. Document are screenshots taken from a distance.

²⁰ Redacted correspondence reflects in Appendix

APRIL 24, 2023 DE NOVO TRIAL

On April 24, 2023, the initial trial court, Burlington Superior, moved forward with trial [2T]²¹ on with defendant's waiver of appearance submitted to the court 2T3:16-18. Michael Cooke, Esq. (herewith in "Counsel Cooke") and defendant's legal counsel testifies to the court as follows:

The plaintiff did not cite any vehicle details 2T4:21-25, that somebody [unidentified police officer] identified Ms. Lasisi 2T5:4-6 and the sole reason for identification was Ackles further testifying that A. Lasisi identified the defendant 2T5:7-12. Counsel further explains the plaintiff's witness not providing evidence identifying the defendant, the evidence was based on hearsay of a Burlington Township Police Officer and A. Lasisi; it should not have been allowed in the case (2T6:1-5). Counsel Cooke further explains the plaintiff outright accuses the defendant because Ackles affirms it is the defendant²² (2T6:6-9) and the plaintiff did not provide defendant an opportunity to cross-examine or provide information from the defendant's discovery request at trial²³ (2T6:10-23).

²¹ 2T represents the Superior Court De Novo Trial transcripts – 4/24/2023

²² Details of Ackles narrative changes are on page 16 and 17 of this brief.

²³ The defendant had the capability to cross-examine; discovery documents received was incomplete and deemed as the defendant received a "sum and substance form of the discovery case". defendant's discovery request, was clear and to the point from the initial request.

Counsel Cooke goes on to say, the plaintiff's witness, Ackles, testifying on behalf of A. Lasisi is an out-of-court statement and should not have been allowed in the case 2T7:3-7; furthermore, there is an obligation for the plaintiff to check they have identified the correct person of the alleged incidents proclaimed by Ackles. Then, the issue with the denied Motion to Stay from the Municipal court enters. Counsel states in his opinion as to why the Court felt the defendant was defiant when she stated, "I'm not going to be paying, I'm not going to be paying my fines, I'm appealing"; he furthers his opinion with indication that, "...the Court either took it as a motion, though imperfectly made, or addressed it without the motion, you know, as not a motion made by the defendant but on its own accord in denying the stay". (2T7:14-24) Counsel mentions the Municipal Court implies, yes, the defendant will be paying the fines without explanation, defendant will be penalized and then denies her Motion for Stay (2T7:25, 2T8:1-7).

Counsel Cooke informs the court, in fact, that he filed for a Motion of Stay without a copy of the transcript where the Motion for Stay was already denied by the Municipal Court and that the Motion for Stay pending appeal has yet to be decided. (2T8:8-15) Counsel Cooke further confirms his theory, in part, it's possible he and defendant could lose the stay motion below, then motioned Court for reconsideration, as his submitted Motion for Stay should have been considered stayed pending the Municipal Court's hearing and decision on defendant's stay

motion. Counsel Cooke elaborates in his concern for the defendant's stay motion, indicating, "I think the Court below intends to – might penalize her for the period of time from the end of the – the –"; The Trial Court informs he will address Counsel's concern on the stay motion and does so immediately. (2T9:1-11) He reiterates the same gesture of filing the appeal without transcripts²⁴ (2T8:10-11).

The Superior Court agrees with Counsel Cooke; the Municipal Court should have granted the stay instead of imposing the penalty of a fine, 10-day jail sentence and probation, in part, because a defendant in municipal court who has the right to file an appeal maintains their presumption of innocence (2T9:12-16) (enter in court rule/statute). The Superior Court further states, "...the Judge below should have stayed imposition of the sentence, which was only the fines" (2T9:22-25) instead of penalizing the defendant of the 10-day jail sentence and probation. The Superior Court questions if the defendant paid; Counsel Cooke confirms she did not pay her fines. The Superior Court mentions they will address in lateral, the Defense rests at this point.

The plaintiff Counsel, Alexis Agre (herewith in "Counsel Agre") opens arguments by accusing the defendant of (1) solely relying on its brief for the most

²⁴ New Jersey Rule 3:23 requires that when an appeal is filed, the original transcript must be filed with the Criminal Division Manager at the Superior Court and a certified copy with the Prosecuting Attorney. Before you send or deliver the Transcript Request-Municipal Court form, contact the court for the estimated cost of the transcript and who to make the check out to.

part, addressing hearsay arguments were unfortunate due to waiver of appearance and by not objecting (2) hearsay arguments brought up by the defendant and (3) defendant's answers on hearsay that were being considered at the Superior Court, now being objected to, were brought as answers to questions posed during defendant's cross-examination of the plaintiff's witness (2T10:9-20)

Counsel Agre redirects the Superior Court to the submitted plaintiff's brief, citing *State v. Allen* regarding defendant's risk of proceeding as pro se after being advised of the risks inherent of representing oneself in court and if the defendant would have made those objections, the complaints could have been waived²⁵ (2T10:21-25, 2T11:1-6). She furthers fault to the defendant for opening the doors of hearsay, repeatedly questioning the plaintiff's witness, Ackles and redirects back to the defendant for opening the doors due to risks brought up by the Municipal Court via *State v. Allen*²⁶.

Counsel Agre directs the Court to, "...look at the record she – the matter was postponed, did give her time to hire an attorney, to apply for the public defender, and she proceeded to trial without an attorney in this matter and then was advised

²⁵ The Municipal Court overruled all of her objections based on excited utterance, and not being offered as hearsay so – [1T23:21-23, 1T45:3-5 -11/29/2022]

²⁶ The defendant did not open the doors of hearsay during cross-examination, the Plaintiff's witness opens the door initially with Prosecutor Gee [1T18:25-26 -11/29/2022] and initially on cross-examination [1T27:11 -11/29/2022].

of the risk of proceeding pro se by Judge Lange²⁷...” (2T11:22-25, 2T12:1-3). In actuality, the defendant began as pro se and hired an attorney who in turn was dismissed by the defendant on the record at the September hearing²⁸.

Counsel Agre agreed with Judge Lange making several credible findings based on (1) finding the defendant and only one of the defendant’s witnesses that sequestered, Lasisi Sr., to be incredible and (2) finding the plaintiff’s one out of three witnesses, to be credible and (3) evidence on the record to convict the defendant of disorderly conduct²⁹. (2T12:4-11) The defendant’s counsel reaffirms in opposition (1) Although defendant did not make the objection; (2) Ackles did not have to answer as questioning is routine and in like manner; (3) Ackles opened the door of hearsay when testifying on behalf A. Lasisi (deemed as hearsay), and then an objection would come forth (2T12:14-21). Counsel Cooke indicates the defendant did not imply an objection and the court below shouldn’t have considered Ackles testimony on behalf of A. Lasisi (2T12:22-25, 2T13:1-6).

²⁷ The Municipal Court Judge informed the difficulties of cross-examining if not a trained attorney and proceeds with instructions [1T26:3-9 -11/29/2022]

²⁸ Motion to Supplement the record was submitted the Appellate Division asking for more time to order the transcripts from the Municipal Court. The response did not approve or denial the Municipal Court transcripts request. Another motion will be submitted for the reply brief

²⁹ The defendant informs Municipal Court she did not receive all discovery documents and with resubmission requesting documents along with the request of documents [1T7:9-17, 1T - 11/29/2022], Prosecutor Gee could not recall the subpoena, only the cease and desist, however offers to have her documents checked in court [1T9:1-13 -11/29/2022]. The Municipal Court was informed defendant submitted motion to dismiss and for lack of discovery/additional discovery habitually, lower court wasn’t sure if they have a copy, and relied on defendant’s testimony regarding discovery submission and status [1T11-13 -11/29/2022].

Counsel Agre reaffirms the plaintiff's argument accusing the defendant who asked the question³⁰, kept going with her line of questioning, and that it does not in fact raise rise to the level of plain error Rule 2:10-2 (2T13:18-25).

The Superior Court prefaces in reviewing the record, based on (1) the plaintiff's witness was found credible and very good (2T14:23-25), (2) on the contrary found it difficult to determine whether or not Lasisi Sr. is credible because it's difficult to determine due to the questions asked to Lasisi Sr. were leading questions; some of his answers were indiscernible (2T15:13-17). Then confirms his testimony about what Ackles knows, but Lasisi Sr. failed to explain how and why he knows what somebody else thinks; that the questions were improper since they are deemed irrelevant, misleading, confusing, and unnecessarily repetitive with many objections to the defendant's direct examination questions, all sustained (2T15:13-25). The Court furthers that it was difficult for Lasisi Sr. because the defendant continuously spoke over the Judge when he was trying to rule on the objections, concluding this testimony had very little value in determining the guilt or innocence of the defendant (2T16:1-7)³¹.

³⁰ The defendant did not open the doors of hearsay during cross-examination, the Plaintiff's witness opens the door initially with Prosecutor Gee [1T18:25-26 -11/29/2022] and initially on cross-examination [1T27:11 -11/29/2022].

³¹ In actuality, Lasisi Sr. was speaking in the defendant's ear as the Court was making his ruling.

The Court further mentions, (1) the defendant testified herself; the court found her not to be credible, noting that on pages 45 and 46³² of the transcripts, the defendant and Lasisi Sr. were conversing in reference to her whereabouts on the night of November 2, 2021. (2T16:8-13) The Superior Court interprets her “slipping” when she asked the question to Ackles, “Was there anybody besides me, did you see anybody there that day?”³³ and considers her question as an admission that she was present. (2) That defendant testified she doesn’t listen to rap music but has knowledge of rap music³⁴; but found it irrelevant, repetitive, and unnecessarily self-serving (2T16:19-23) (3) She was asked by the Judge to get the facts of the case, she was unable to do so³⁵, and (4) She mentions an alibi without revelation, (5) The Superior Court gives deference to the court below agreeing with the Judge’s credibility assessments with the exception of to Lasisi Sr. as it’s difficult to determine whether or not he was credible (2T16, 2T17:1-7).

The Superior Court states its decision based on the following: (1) the plaintiff’s witness was straight forward, clear and was able to identify the

³² The Municipal Court and Prosecutor Gee overruled all of her objections based on excited utterance, and denied Ackles hearsay testimony of A.Lasisi and his nephew being offered as hearsay so – [1T23:21-23, 1T45:3-5 -11/29/2022]

³³ Her 11/27/2022 ADA accommodation request informed the Municipal Court of language barrier challenges as we are of African decent.

³⁴ The defendant studied music on the collegiate level as well as worked in the entertainment industry in various capacities

³⁵ She was asked to bring forth copies of the motion to dismiss and lack of discovery paperwork, however Prosecutor Gee confirms the Court’s capabilities to check internally during trial [1T11-13 -11/29/2022].

defendant without objection, (2) The Court not finding plain error because the defendant chose to represent herself as pro se and asked Ackles if he was certain of his identification, there's nothing to indicate that his identification was suggested by any factor except his outright memory. (2T17:12-17) (3) Arguments made about his identification and hearsay statements would be different if the only identification was out-of-court and if the in-court identification question was proper or not (2T17:18-21). The Superior Court informs, in this case, the real question is was the in-court identification proper; that Ackles in-court identification of the defendant as the one that committed an offense against him was proper, unequivocal. (2T17:22-25). Citing, Ackles identifies defendant at least four times in the transcripts on Page 18, Page 28, and twice on Page 32³⁶.

(4) The Superior Court again does not find plain error as the Court proclaims defendant herself tacitly admitted that she was there on the date of the offense and that she objected to many things but not victim's question or answers about identification of her, practically the only mention that was not objected to (2T18:6-12); (5) The Superior Court explains in-court identification and out-of-court identifications (2T18:13-18). (6) The Court confirms that she had no defense other than that she was not present at the location of the incidents on either day or that

³⁶ On page 17 of the brief details and references Ackles changed testimony.

she cannot back up her assertions of not being there³⁷. (2T18:19-25, 2T19:1-4) (7)

The Court finds the defendant guilty on de novo review citing that the defendant made racially offensive and threatening remarks towards the victim, with the intent to annoy or alarm him that this was done in public on November 7, 2021, similarly on November 2, 2021 against the victim noting the reason for him taking action to have his complaint issue. The Court concludes the plaintiff has met their burden of proof and finds beyond a reasonable doubt that the defendant said racial words to Ackles in violation of N.J.S.A. 2C:33-2A(1), assessed fines and other fees. (2T19:10-25).

Counsel Cooke informs the court, the defendant was considering appealing to the Appellate Division if defendant did not prevail on de novo and asked to make motions for a stay, pending appeal on the Appellate level. Note: The Municipal trial court has yet to conduct their hearing on the decision. The Superior Court denies the motion for stays citing the following two reasons: (1) defendant retains the presumption of innocence when you apply on de novo review via Municipal Court and (2) Since the Superior Court found the defendant guilty, the likelihood of prevailing on the appeal is remote and the Court does not maintain her presumption of innocence and (3) she was excused on waiver of appearance

³⁷ The defendant submitted Motion to Dismiss, lack of discovery, as well supporting documentation of her whereabouts from November 2-10 of 2021 [1T11:14-15 -11/29/2022]

(2T20:19-23, 2T21:6-23, 2T22:2-3). The Superior Court ends trial with fines, without imposing the suspended probation or jail sentence (2T22:21-25) and issued order finding defendant guilty on de novo review. (AP 97)

ISSUES & LEGAL ARGUMENT

POINT I

DEFENDANT HAD INEFFECTIVE ASSISTANCE OF COUNSEL DURING HEARINGS LEADING TO TRIAL, INCLUDING THE DE NOVO REVIEW, WHICH WOULD HAVE LIKELY RESULTED THE DEFENDANT FOUND NOT GUILTY [2T11:22-25]

Counsel Agre direct the court to, “...look at the record, she – the matter was postponed, did give her time to hire an attorney, to apply for the public defender, and she proceeded to trial without an attorney in this matter and then was advised of the risk of proceeding pro se by Judge Lang...” (2T11:22-25, 1T12:1-3). The defendant did have legal counsel³⁸ in the matter who informed the lower court of the defendant moving to trial during the September 2022 hearing. The defendant requested counsel to submit a Substitution of Attorney form after continuous errors displayed at her hearings, requests for new Judge, submission of proof, obtaining discovery documentation, and creating extra chaos during the hearing prior to

³⁸ Counsel for de novo review only ordered the November 29, 2022 trial transcripts, Appellant submitted a motion to supplement the record requesting the order of all the Municipal transcripts

trial³⁹. If legal counsel did not display this type of behavior, this very well could have led the defendant from going to trial with counsel and ultimately found not guilty. With the understanding the defendant does not qualify for a public defender, she began her search for new counsel and was constantly denied by other counsels for the stated reason of prior counsel on the matter; the court below proceeded with trial where the defendant had to enter in as pro se. She immediately submitted the request of her witnesses sequestered by subpoena, under the instruction of the lower court, for court notice production. However, only one of the defendant's witnesses appeared⁴⁰.

There are risks entering into legal counsel as well⁴¹; under New Jersey law, ineffective-assistance-of-counsel claims “are particularly suited for post-conviction review because they often cannot reasonably be raised in a prior proceeding.” For a defendant to establish a case of ineffective assistance of counsel, the defendant must show that “[defense] counsel’s performance was deficient,” and that “there exists a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *Id.* At 463-64, 609 A.2d 1280

³⁹ In addition to the Office of the Public Defender, she was directed to the Bar Association where she reached out for legal assistance and counsel. The names of counsels provided was not willing to take on the matter for various reasons; the Court noted they would no longer further adjournment, denied her ADA Title II accommodation in part.

⁴⁰ N.J. Ct. R.1:9; R. 4:14-2, R.1:5-2 and R. 1:2-4

⁴¹ The defendant's counsel discusses ineffectiveness of counsel [2T13:7-14 – 4/24/23]

(quoting *Strickland v. Washington*, 466 U.S. 668, 694, 104 S.Ct. 2052, 2068, 80 L.Ed.2d 674, 698 (1984)).

The same issue occurred with the defendant's trial appeal on de novo; the submitted brief from Counsel Cooke nonchalantly affirms and/or suggests defendant's admission of guilt based on the testimony of A. Lasisi⁴²; specifically stating, "*One might unfairly infer that defendant admitted to the act to the witness. However, we don't know that because the witness was not there to be questioned and elaborate*". Furthermore, Counsel's brief was rather repetitive⁴³ regarding Burlington Police Department's absence from trial; however, the plaintiff's witness, Ackles, admitted perjury relinquishing both Burlington Police Department and A. Lasisi as the one's identifying the defendant throughout his conflicting testimonies both written and orally⁴⁴.

Judge Tarantino confirmed he read both plaintiff and defense Counsel's brief (2T3:20-23). If the defendant's Counsel did not proclaim this suggestion on behalf of his client, although she has testified and continues to claim her innocence, the error could have changed the course of the de novo review outcome.

⁴² Beginning on page 11, last paragraph, line 7 within Counsel Cooke's brief AP 48 – AP 62

⁴³ Examples of counsel immediate repetitive statements within brief: page 7, paragraph 3, lines 2-4 and again on page 8, paragraph 1, lines 4-8 / pages 8-9, Under Point I, paragraph 1, lines 2-3 and again in lines 8-9

⁴⁴ [1T18:15-16 – 11/29/22]

The same for the initial ADA Accommodation requests, there were nonchalantly tasked to the court with pre-determinations of denial, although the request was historically similar.

Counsel Cooke also informs the court he did not have a copy of the transcript(s) prior to the appeal application before filing appeal and prior to the motion for stay submission (2T8:8-15); he could have very well asked for an extension of time to ensure preparation of trial. Further, in the timely filed application by legal counsel, a list of all the transcript dates were not requested (AP 68), giving the Superior Court a full depiction of the hearing details and the name of the Judge was incorrect.

Counsel Cooke ultimately then entered his motion to withdraw as counsel on May 17, 2023 and granted by Judge Lange at the Motion of Stay hearing⁴⁵; although Judge Tarantino already heard and decided on the Motion of Stay. The Motion of Stay hearing was calendared again by the lower court after informing the Municipal Court of obtaining an attorney over the Motion of Stay hearing. However, the lower court calendared the hearing again on May 23, 2023 and dismissed, when the defendant sent her Notice of Appeal.

⁴⁵ The Motion of Stay hearing should have been canceled with Judge Lange as on pages 14-15 of Counsel Cooke's brief asking to vacate the motion for stay if the review on de novo was denied; the Motion for Stay was granted and reversed the imposed sentencing

POINT II

BOTH TRIAL COURTS FAILED TO ENGAGE IN AN INTERACTIVE PROCESS CONCERNING HER ADA TITLE II ACCOMMODATION REQUEST AND LIMITING DIVULGENCE OF FEDERALLY PROTECTED HIPAA INFORMATION TO THE COURT THROUGH HER ATTORNEY SOLELY [2T3:14-19]

Ultimately, the defendant was denied access to the court, compromising ADA Title II, her HIPAA rights⁴⁶, and R. 4:36-3(b), her employer with counsel entering a waiver of appearance in substitution. The defendant has multiple ailments under the Americans with Disabilities Act both known to the Municipal and Superior Courts. The Superior Court has been granting accommodation and adjournment requests over the years mostly for the same illnesses but with the introduction of a physical disability; most recently with cases under current Appellate review. However, in this matter her accommodation request under ADA was denied, in part, for Municipal Trial Court hearing on November 29, 2022 forcing her to submit to the Court under pain and suffering, the Municipal Trial Court appeal and the Municipal Motion to Stay post de novo hearing where Counsel Cooke withdrew representation. The courts were apprised of defendant's

⁴⁶ Health Insurance Portability and Accountability Act (45 CFR Part 160 and Subparts A and E of Par 164)

need for accommodation with forms, Counsel's letter and medical documentation. Information was sent to the Municipal and Superior ADA Coordinator(s).

When the Superior Court informed, she will mandatorily attend with Counsel Cooke at the de novo review, she provided ADA medical documentation through Counsel and informed the Court through Counsel Cooke she was not in the State of New Jersey and her employer did not provide the accommodation to go to her hearing via Zoom. The defendant asked for an adjournment so she may attend the hearing; the adjournment request was denied by the Judge with Counsel Cooke subsequently entering in a waiver of appearance in lieu of.

ADA Title II: State and Local Government activities require that State and local governments give people with disabilities an equal opportunity to benefit from all of their programs, services and activities (e.g. courts). They are required to make reasonable modifications to policies, practices, and procedures where necessary to avoid discrimination, unless they can demonstrate that doing so would fundamentally alter the nature of the service, program or activity being provided; the defendant's requests did not offer any alterations to the proceedings. The Superior Court did not provide accommodation, where the defendant could have asked Counsel to amend his brief and/or bring up the discussion topic at the appeal hearing.

In regard to adjournment requests, the defendant made her requests within time, proposing a new trial date shortly after the initially scheduled trial date, as well as, abiding by the Superior Court's request to send all submissions to the Court via Counsel Cooke. The defendant's request was filed time in accordance to N.J. Ct. R. 4:36-3(b), which reads as :

Rule 4:36 - Assignment for Trial in the Superior Court, N.J. Ct. R. 4:36 (“An initial request for an adjournment for a reasonable period of time to accommodate a scheduling conflict or the unavailability of an attorney, a party, or a witness shall be granted if made timely in accordance with this rule. The request shall be made in writing stating the reason for the request and that all parties have consented thereto. The written adjournment request, which shall be submitted to the civil division manager, shall also include a proposed trial date, agreed upon by all parties, to occur as soon as possible after the problem requiring the adjournment is resolved. If consent cannot be obtained or if a second request is made, the court shall determine the matter by conference call with all parties. Requests for adjournment should be made as soon as the need is known but in no event, absent exceptional circumstances, shall such request be made later than the close of business on the Wednesday preceding the Monday of the trial week. No adjournments shall be granted to accommodate dispositive motions returnable on or after the scheduled trial date.”)

POINT III

THE TRIAL COURTS FAILED BY EXCLUDING DEFENDANT'S DISCOVERY DOCUMENTS, PLAINTIFF'S DISCOVERY DOCUMENTS, ACKLES SUBPEONA DUCES TECUM [1T65:8-11, 1T7:6-17, 1T8:14-23, 1T10:15-21, 1T11:10-13]

The defendant argues there was no submitted evidence by the plaintiff, against the defendant beyond a reasonable doubt, to support their claim of the alleged criminal acts taking place on November 2, November 7, and November 10;

documents submitted by the defendant were excluded that would have served as supporting, oppositional evidence, countering the plaintiff's sole witness, Ackles changing, untruthful testimony⁴⁷. The court excluded the supporting documents request by way of the defendant's subpoena duces tecum⁴⁸ directed to the plaintiff's witness, Ackles. Ackles appeared in front of the defendant confirming his whereabouts of the alleged incident dates verbally and without tangible supporting documentation.

In addition, the defendant submitted multiple motions for discovery, under the direction of the lower court, due to the plaintiff's failure to make discovery, allowing defendant to properly prepare for trial. The plaintiff finally obliged to the defendant's request but in partiality. When the defendant brought this to the attention of the lower court, it was deemed the defendant discovery request is a "fishing expedition."⁴⁹ According to Rule 37 (a)(2) A motion for an order to a party must be made in the court where the action is pending. The defendant submitted her motions per Rule 37 and under the exact instructions of the lower court, similarly the lower court's immediate request for the names and addresses of all requested "witnesses".

⁴⁷ Rule 608: Evidence of a witness 'character for truthfulness or untruthfulness

⁴⁸ requesting supporting documentation that would confirm he was at the location of the alleged incidents,

⁴⁹ Municipal Court Transcript [1T13:9-12 -11/29/22]

POINT IV

THE TRIAL COURT ERRED WHEN THEY AGREED THE DEFENDANT FAILED TO MAKE OBJECTIONS TOWARDS THE OPENED DOOR TO IN-COURT AND OUT-OF-COURT IDENTIFICATIONS [1T19:4-18, 1T30:15-25, 1T59:21]

The plaintiff's Witness Ackles opened the door to in-court and out-of-court identifications⁵⁰. His November 8, 2021 signed complaint counters his hearsay testimony of A. Lasisi giving him the defendant's name on November 9, 2021; he counters again when he says he actually "knew" the defendant as of November 2 (IT18:15-16) relieving Burlington Township Police Department and A. Lasisi. Although he relieves those he shift blames, he continues to counter his identification testimony when he repeatedly changes his narrative 1T32:21-26, 1T34:4-6, 1T35:14-22, 1T36:2-9, 1T36:10-16 and failed to update his November 8, 2021 signed statement indicating he knew the defendant because of A. Lasisi (AP 10); he had two extra days to amend his document(s) introducing A. Lasisi as witness and to be called upon to testify by either plaintiff or defendant before his final submission to Burlington Township Police Department. Furthermore, the plaintiff blatantly did not call upon their witnesses for testimonies from Roquita Dallard, Raashid Adowa, but introduced hearsay testimony from the Ackles, on behalf the defendant's witness' significant other, A. Lasisi⁵¹.

⁵⁰ Ackles initiated in-court and out-of-court identifications – [1T18:14-20 – 11/29/22]

⁵¹ Municipal Court transcript [1T18:25-26 -11/29/2022]

In accordance with Rule 801, hearsay statements are typically excluded with the following exceptions, (1) Declarant-Witness Prior Statement, (2) Statement by Party-Opponent, (3) Statements not dependent on declarant availability, (4) Records of regularly conducted activity, and even (5) Public records, reports and findings. None of the exceptions are applicable to the hearsay testimony by Ackles on behalf of Lasisi Sr.'s significant other. In addition, Lasisi Sr. testified Ackles and Lasisi Sr.'s family residing next door were having issues since the inception of their move-in⁵². The defendant entered her defenses and objections before, during and after trial per R. 3:10-2(d), R. 3:10-2(e), 1T19:4-18, 1T30:15-25 and 1T59:21. The raised issue by Counsel Agre, *State v. Allen*, the element of identification is discussed. In *State v. Allen* there is an emphasis of cross-racial identification where the White witness based his identification mostly on the African American defendant. Specifically,

State v. Allen, 294 P.3d 679, 681 (Wash. 2013) (“The court refused Allen's request. No expert testimony on the reliability of cross-racial eyewitness testimony was given at trial. The only testimony given on the subject was by Officer Bennett, the officer in charge of directing the show-up identification, who, on cross-examination, agreed that he was “aware of studies suggesting that cross [-]racial identifications can be more difficult for people.” VRP (Oct. 21, 2009) at 57. He also agreed that “sometimes people of different races will have a more difficult time identifying somebody of a different race,” though he did not see any indication of difficulties in Kovacs' identification. VRP (Oct. 21, 2009)”)

⁵² Municipal Court transcript [1T52:8-10, 1T53:1-21 -11/29/2022]

However, this element does not apply as the plaintiff's witness, the defendant and the defendant's witness are all African American. The plaintiff's witness, Ackles, had difficulty identifying the defendant, who's of the same race as he.

State v. Allen, 294 P.3d 679, 683 n.3 (Wash. 2013) ("The instruction to be given in New Jersey, following [State] v. *Henderson*, tells the jury that human memory is not foolproof and that "[i]n deciding what weight, if any, to give to the identification testimony, you should consider the following factors that are related to the witness, the alleged perpetrator, and the criminal incident itself": (1) the witness's opportunity to view and degree of attention, considering factors of stress, duration, weapon focus, distance, lighting, intoxication, and disguises/changed appearance, (2) prior description of perpetrator, (3) confidence and accuracy, (4) time elapsed, and (5) cross-racial effects. Press Release, New Jersey Supreme Court, Eyewitness Identification Criteria for Criminal Cases 3 (July 19, 2012) (effective Sept. 4, 2012), <http://www.judiciary.state.nj.us/pressrel/2012/pr120719a.htm>. The cross-racial effects factor specifically states that "[r]esearch has shown that people may have greater difficulty in accurately identifying members of a different race. You should consider whether the fact that the witness and the defendant are not of the same race may have influenced the accuracy of the witness's identification.")

During cross-examination of Ackles, "Was there anybody besides me, did you see anybody there that day⁵³?" The defendant is establishing the witnesses' degree of attention, factors of stress, distance, lighting, confidence and accuracy. The plaintiff's witness stated one of the incidents occurred at night without further recollection of the other alleged incidents. Ackles answered firmly, it was the

⁵³ The Superior Court concludes as an interpretation of admission of guilt or "slipped".

defendant at trial but he was unable to identify the defendant of the same race, that carries a lesser degree of difficulty in identification as they are both African American. Repeated questioning and redirect on cross-examination posed no error in allowing these lines of questioning on redirect examination. Per plaintiff's counsel, "if the defendant would have made those objections, the complaints could have been waived (2T11:1-3) Defendant made several objections during her trial regarding Ackles habitual changing identification narrative (1T19:4-18, 1T30:15-25).

POINT V

THE TRIAL COURTS ERRED WHEN THEY HAD BEARING ON THE FACT OF DEFENDANT'S ACCUSED CHOICE OF RAP MUSIC AND LYRICAL CONTENT SPEARING VIOLENCE [1T20:20-22, 1T28:5-7, 2T16:19-21]

In the plaintiff's complaint and testimony, Ackles, stated the defendant threatened that she was going to have people from Brooklyn come, beat him up, was playing rap music with lyrics stating the word Nigger repetitively and with drowning violent lyrical content. During cross-examination, the defendant could not recall the song title or the rap artist name however, Ackles was confident, with his in and out-of-court statement, that the lyrics in the stated genre song choice, recited violent lyrics of "Kill the Nigger. Kill That Nigger" and again on repeat "Nigger", in efforts to establish the defendant's motive and intent. The initial trial court beared weight on Ackles' convoluted facts, again reaffirmed at the appeal de

novo hearing when finding the defendant is guilty of disorderly conduct in the Judge's reviewing the record. The defendant's knowledge on music and lyrical content stems from verifiable, degreed collegiate curriculum(s) and professional positions within the respective industry.

In *State v. Skinner*, the Court concluded that the rap lyric showing a "sort of obsession with killing people" was relevant and admissible to prove defendant acted "knowingly or purposefully[.]" *Id.* at 480-81. Under appeal, Justice LaVecchia wrote, "One would not presume that Bob Marley, who wrote the well-known song 'I Shot the Sherriff,' actually shot a sheriff, or that Edgar Allan Poe buried a man beneath his floorboards, as depicted in his short story 'The Tell-Tale Heart,' simply because of their respective artistic endeavors on those subjects." Furthermore, The Court said it detected "little to no probative value" to the lyrics. In other words, the lyrics should have had no bearing on the facts in the case.⁵⁴

A federal appeals court found the use of the word 'nigger' was protected by the First Amendment. The court found that the First Amendment permits criminalization of abusive language, on the basis the trial court proves the language had direct tendency to cause immediate acts of violence and reversed the defendant's conviction (*See United States v. Bartow*).⁵⁵ The plaintiff's own witness

⁵⁴ <https://njsbf.org/2023/02/15/using-rap-lyrics-as-evidence-in-court/>

⁵⁵ *United States v. Bartow*, No. 19-4496 (4th Cir. 2021)

testifies a heated argument took place with rap music playing in the background and then details a phantom white plastic bag thrown at him; furthering he only called the police one time. In the alleged November 2, 2021 incident, he deemed the act of the unidentified woman as, “she’s having a bad day”, non-violent to the fact the woman was posing a serious threat. For the November 7, 2021, he actually signed complaint on November 8, 2021 stating he does not know who the perpetrator was, waited until A. Lasisi approaches him on November 9, 2021 and proclaims she gave him the defendant’s name and then proceeded with the filing that concluded on November 10, 2021; opting for a lackadaisical approach, personal gatherings, other obligations, without regard to amend the documents for solidified identification of the actual perpetrator, and then testifies that his first testimonies are untruthful; that no one else gave him the information, had just obtained the information on the defendant.

CONCLUSION

For all the above reasons, it is respectfully submitted that the Trial Court and trial court on de novo review erred and failed and should reverse the guilty conviction. In support, the defendant in the matter informs, in addition to her post-conviction relief claim: (1) Plaintiff did not conduct its affirmative obligation to prove that the identification of defendant on the incidents of November 7 and November 10,

2021; identification is necessary for the conviction, the plaintiff's witness displays heavy uncertainty of who the woman was that approached him, first shift blaming Burlington Township Police Department, then A. Lasisi and continuously changes his narrative (2) The word "nigger" is part of the First Amendment only permits of abusive language, on the basis the trial court proves the language had direct tendency to cause immediate acts of violence to the witness; Ackles informs of his lax approach, testifies to his initial untruthful identification efforts on the alleged incident dates and the plaintiff did not bring forth their other witnesses, Dallad and Adowa to corroborate Ackles statement; relying, in part, on his hearsay of Lasisi's Sr.'s significant other; (3) Trial court dismissal of discovery document requests, (4) Trial courts erred when they had bearing on the fact of the defendant's accused choice of rap music with lyrical content repeating the word nigger and curse words.

I hereby certify that the foregoing statements made by me are true. I am aware if any of the foregoing statements are willfully false, I am subject to punishment.

Respectfully submitted,


Shakira A. Lasisi

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION

DOCKET NO. A-3576-22

STATE OF NEW JERSEY, :

PLAINTIFF-RESPONDENT, :

V. :

SHAKIRA LASISI, :

DEFENDANT-APPELLANT. :

CRIMINAL ACTION

**On Appeal From a Final Judgment of
Conviction upon Trial De Novo
in the Superior Court of
New Jersey, Law Division,
Burlington County.**

**Sat Below:
Hon. Mark P. Tarantino, J.S.C.**

BRIEF AND APPENDIX ON BEHALF OF THE STATE OF NEW JERSEY

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PROCEDURAL HISTORY

On November 7, 2021, defendant, Shakira A. Lasisi, was charged with terroristic threats, in violation of N.J.S.A. 2C:12-3, under Summons Number S-2021-000332-0306. The matter was downgraded to disorderly conduct, in violation of N.J.S.A. 2C:33-2a(1), and remanded to the Burlington Township Municipal Court. [Pa1].

Defendant appeared before the Honorable Peter C. Lange, P.J.M.C., on November 29, 2022, for trial. [T].¹ Before trial began, defendant argued that she had not received all of the discovery she requested from the State. [T7-9 to -20]. The State argued that all discovery had been provided. The State contended that the only outstanding material was material about the victim which required the victim to answer defendant directly. [T9-1 to -13].

Defendant argued that she filed motions to dismiss the matter, but the Court pointed out that the motions were denied. [T10-1 to -10]. The court denied the motions that were associated with defendant's motion to dismiss, too. [T10-5 to -10; T11-23 to -12-1]. She did not refile her motion to obtain discovery. [T10-11 to -14]. Defendant stated she wanted emails surrounding her case, but did not specify who the emails were between or the subject of the emails. [T10-

¹ T represents the trial transcript dated November 29, 2022.
2T represents the transcript of the trial de novo dated April 24, 2023.

15 to -21; T12-15 to 13-8]. The judge held that defendant's motions were fishing expeditions and she was not entitled to additional discovery. [T13-9 to -12].

Judge Lange pointed out that the matter had been postponed several times because of defendant. She failed to appear at a court date on May 10, 2022. She was given time to resubmit a motion for discovery on May 24, 2022. She told the court she was going to hire an attorney on July 5, 2022. On August 16, 2022, she told the court she intended to file a motion for body worn camera footage, but she never submitted the motion. At the September 6, 2022, pre-trial conference, the matter was given a date certain for trial.² [T13-13 to 14-7]. Defendant represented herself after being advised of the potential consequences of proceeding pro se. [T4-11 to 6-11].

The State presented the testimony of the victim, Gregory Ackles. [T17]. Defendant presented the testimony of her father, Alliu Lasisi, and testified on her own behalf. [T43; T53]. After hearing the testimony of all of the witnesses, Judge Lange found defendant guilty of disorderly conduct. [T72-1 to -3]. Judge Lange found the victim to be credible. [T67-10 to -19]. He held he did not volunteer information and did not attempt to answer questions when he did not have the information at hand. He held that Mr. Ackles' testimony was consistent

² Transcripts of the prior court proceedings were not provided as part of the trial de novo.

and that he unequivocally identified defendant as the person who issued the threats to him on November 7, 2021. [T67-10 to 68-11].

Turning to defendant and Mr. Lasisi, Judge Lange held that Mr. Lasisi was not credible and his testimony was unhelpful to the court. He stated that Mr. Lasisi had a reason to be biased and his testimony lacked consistency. [T68-12 to 69-3]. He also found that defendant was not a credible witness. He held that her testimony was not corroborated by anything that could essentially establish her alibi defense. He also stated that her testimony was inconsistent and self-serving. [T69-4 to -26].

Turning to sentencing, he imposed the following fines and fees: \$500 fine, \$33 court costs, \$75 Safe Neighborhoods, and \$50 VCCB. He imposed a ten-day jail sentence that he suspended conditioned upon one year of probation. [T74-26 to 75-8].

Defendant then filed a municipal appeal. Defendant raised the following arguments:

POINT 1: THE COURT SHOULD EXCLUDE AND NOT CONSIDER THE HEARSAY TESTIMONY REGARDING OUT OF COURT STATEMENTS BY THE POLICE AND DEFENDANT IS ENTITLED TO AN ADVERSE INFERENCE REGARDING THE PURPORTED IDENTIFICATION OF DEFENDANT BY POLICE.

POINT 2: THE COURT IMPROPERLY ADMITTED HEARSAY TESTIMONY REGARDING ALLEGED POLICE STATEMENTS

AND ALLEGED STATEMENTS BY DEFENDANT'S FATHER'S WIFE.

POINT 3: GIVING DUE EIGHT TO THE EVIDENCE, THE COURT SHOULD FIND THAT THE EVIDENCE IS INSUFFICIENT FOR THE STATE TO MEET ITS BURDEN TO CONVICT DEFENDANT BEYOND A REASONABLE DOUBT.

POINT 4: THE COURT IMPROPERLY DENIED DEFENDANT A STAY OF THIS MATTER PENDING APPEAL.

[Da49].

Defendant appeared before the Honorable Mark P. Tarantino, J.S.C., on April 24, 2023, for her trial de novo. [2T]. Defendant's counsel, Michael B. Cooke, Esquire, waived defendant's appearance. [2T3-14 to -19]. After hearing the arguments of counsel, Judge Tarantino found defendant guilty of harassment, in violation of N.J.S.A. 2C:33-2a(1). [2T14-9 to -11].

In reviewing the transcript of the trial from the municipal court, Judge Tarantino made several credibility findings. [2T14-23 to -24]. Judge Tarantino stated that it was difficult to determine Mr. Lasisi's credibility because the questions posed to him by defendant were largely leading and repetitive. [2T15-14 to -25]. He stated that Mr. Lasisi's testimony was of little evidential value. [2T16-1 to -7].

He held that defendant's testimony was incredible. [2T16-8 to -9]. He held that there were many inconsistencies in her testimony. Judge Tarantino examined defendant's question: "Was there anybody besides me, did you see

anybody there that day?” [2T16-10 to -18]. He held that question constituted an admission that defendant was present at her father’s house on the day of the incident. [2T16-16 to -18]. Judge Tarantino held that defendant testified inconsistently about her knowledge of rap music. [2T16-19 to -23].

He held that the victim, Mr. Ackles, was credible. [2T14-23 to 26-1]. He testified consistently and answered the questions directly. [2T15-1 to -3]. Judge Tarantino held that Mr. Ackles’ “ability to recall was very good.” [2T15-2 to -10].

Judge Tarantino turned to the in-court identification of defendant. [2T17-14 to -17]. He held the victim’s identification of defendant was unequivocal and proper. [2T17-23 to 18-2]. He also held that defendant implicitly indicated her presence at the scene through her line of questioning. [2T18-6 to -12].

Judge Tarantino found defendant guilty of Disorderly Conduct beyond a reasonable doubt. [2T19-18 to -23]. He held that defendant used racially charged language with the intent to alarm or annoy the victim. [2T19-10 to -13]. He discredited defendant’s assertion that she was not present at the scene of the incident. He noted defendant made remarks that included a promise of violence to the victim. [2T19-24 to 20-4].

Judge Tarantino imposed the same sentence as imposed in the municipal court: \$500 fine, \$33 court costs, \$50 VCCB, and \$75 Safe Neighborhoods. [2T20-5 to -10].

This appeal follows the finding of guilt at defendant's trial de novo.

STATEMENT OF FACTS

On November 2, 2021, the victim, Gregory Ackles, was returning to his home after refereeing a basketball game around 10:00 p.m. [T18-15 to -20]. Defendant, Shakira Lasisi, was outside her father's home mowing his lawn. [T18-18 to 19-3]. Mr. Ackles' and Alliu Lasisi, defendant's father, were neighbors in Burlington Township. [T18-25 to -26]. When Mr. Ackles got out of his car, defendant began yelling at Mr. Ackles. She used profanity, racial epithets, and threw a trash bag at him. [T20-4 to -25].

When Mr. Ackles stated that he did not know defendant, defendant told Mr. Ackles that she was going to kill him. [T20-15 to -19]. She started playing rap music with violent lyrics and race-based expletives. [T20-20 to -25]. Mr. Ackles repeated that he did not know her and she said, "Well, I'm going to kill your fucking ass." [T20-24 to -25]. Mr. Ackles retreated to his house because he took her threats seriously and was fearful but he did not call the police. He did not know defendant. [T21-1 to -8].

On November 7, 2021, his nephew called him and let Mr. Ackles know that a woman, later identified as defendant, was yelling at Mr. Ackles' nephew and had almost hit him with her car.³ [T21-23 to 22-3]. Mr. Ackles left church and returned to his house. He arrived at his house right after the police had left. His nephew called the police and spoke to them after he was threatened. [T23-26 to 24-8]. Defendant was not at the scene. [T24-4].

Mr. Ackles started mowing his lawn. [T24-12 to -14]. While he was mowing his lawn, defendant came back to her father's house and began using racial epithets and yelling at Mr. Ackles. [T24-15 to -20]. She told defendant, "I'm going to kill your black ass, you fucked with my father." [T24-21 to -22]. She threatened to have her "boys from Brooklyn" come to Burlington Township to kill Mr. Ackles if he harassed her father. [T25-1 to -4]. Mr. Ackles denied knowing her father. [T24-23 to -26]. Mr. Ackles phoned the police and filled out a complaint. He could not identify defendant, but he could identify her car and license plate at the time he filed the complaint. [T25-10 to -17].

On cross-examination, defendant questioned Mr. Ackles if he was mistaken about her identity. [T26-25 to 27-9]. He stated that he learned who she

³ Defendant objected to what the nephew told Mr. Ackles as hearsay. Initially, the court sustained the objection but later admitted it as an excited utterance as defendant had almost hit the nephew with her car. Furthermore, the State was not offering the statement as a part of the matter asserted, but to inform the court about the next steps taken by Mr. Ackles. [1T22-4 to 23-23].

was after defendant's stepmother informed him that defendant was her stepdaughter. Mrs. Lasisi, whose first name was not given at trial, knocked on Mr. Ackles' door approximately three days after the lawn-cutting incident. [T27-10 to -16; T27-22 to -24]. Mr. Ackles identified defendant in court as the person who issued the threats and used the racial epithets. [T28-1 to -18]. He could not recall the make and model of defendant's car or what defendant was wearing. [T30-1 to -5; T32-9 to -11].

Defendant's father testified on defendant's behalf. He stated that defendant was not at his house on the night of November 2, 2021. [T41-10 to -13]. He was unaware of his wife approaching Mr. Ackles after the events on November 7, 2021. [T42-18 to -20; T49-5 to -8]. He stated defendant was not at his house on November 7, 2021. [T49-14 to -23]. Mr. Lasisi stated that Mr. Ackles did not know the whole Lasisi family. [T46-24 to 47-2]. He did not see any police officers at Mr. Ackles' house. [T47-3 to -12].

On cross-examination, Mr. Lasisi could not remember what he was doing on November 2 or November 7, 2021. [T49-24 to 50-16]. He also did not know if Mrs. Lasisi had spoken to Mr. Ackles because he could not account for what she did while he was at work. [T49-5 to -12].

On re-direct examination, Mr. Lasisi stated that Mrs. Lasisi did not tell him that she spoke to Mr. Ackles. He also stated that they had difficulties with

Mr. Ackles over parking when the Lasisis first moved in to their house. [T52-1 to 53-21].

Defendant testified that she was not present at her parents' house on November 2, 2021. [T59-21 to -22]. She stated that she was not allowed to be at their house without their permission. [T59-22 to -23]. Moreover, she was not in Burlington Township on that date: she travels for work and owns property elsewhere in the State. [T60-17 to -24]. Defendant denied having seen Mr. Ackles before the court proceedings began. [T60-7 to -9]. She stated she could not have been doing yardwork because she had a disability that prevented her from doing work like that. [T60-1; T61-12 to -15]. She stated she does not use profanity like Mr. Ackles asserted. [T61-20 to 62-8].

LEGAL ARGUMENT

POINT I

DEFENDANT'S ARGUMENTS AS TO EFFECTIVE ASSISTANCE OF COUNSEL WERE NOT RAISED AT THE TRIAL COURT LEVEL.

Defendant received effective assistance of trial de novo counsel. As these types of claims often rely on evidence outside the record, they are best addressed in motions for post-conviction relief. State v. Castagna, 187 N.J. 293, 313 (2006). Rule 2:10-2 provides:

Any error or omission shall be disregarded by the appellate court unless it is of such a nature as to have been clearly capable of

producing an unjust result, but 15 the appellate court may, in the interests of justice, notice plain error not brought to the attention of the trial or appellate court.

Generally, unless an unobjected to issue, even a constitutional issue, goes to the jurisdiction of the trial court or concerns matters of substantial public interest, the appellate court will not consider it. Nieder v. Royal Indem. Ins. Co., 62 N.J. 229, 234 (1973); see cases cited at Pressler, Current N.J. Court Rules, comment on R. 2:6-2 (2005). Not any possibility of an unjust result will suffice. The possibility must be “sufficient to raise a reasonable doubt as to whether the error led the jury to a result it otherwise might not have reached. State v. Macon, 57 N.J. 325, 336 (1971). Additionally, counsel’s failure to object below can be interpreted to mean that counsel did not consider the error to be significant in the context of the trial. Macon, supra, 57 N.J. at 333.

The Sixth Amendment right to counsel includes the right to effective assistance of counsel. U.S. CONST. amend. VI; State v. Norman, 151 N.J. 5, 23 (1997). The “benchmark” for analysis of a claim of ineffective assistance of counsel is “whether counsel’s conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result.” Strickland v. Washington, 466 U.S. 668, 686, 104 S.Ct. 2052, 2064 (1984).

To demonstrate ineffective assistance of counsel, a defendant must satisfy a two-prong test enunciated by the United States Supreme Court in Strickland. Id. at 687, 104 S.Ct. at 2064; State v. Fritz, 105 N.J. 42, 52 (1987). This test requires defendant to show 1) “that counsel’s performance was deficient,” and 2) “that the deficient performance prejudiced the defense.” Id. The defendant is required to make both showings to demonstrate that a failing of the adversary process rendered the conviction unreliable. Id.

The defendant must first establish that counsel performed deficiently, to the extent “that counsel made errors so egregious that counsel was not functioning as the ‘counsel’ guaranteed the defendant by the Sixth Amendment.” Id. To satisfy this element, the defendant must demonstrate that counsel’s representation fell below an objective standard of reasonableness as determined by prevailing professional norms and the circumstances of the individual case. Id. at 687-88, 690, 104 S.Ct. at 2064-66.

When challenging counsel’s performance, the defendant must specifically allege acts or omissions that constitute ineffective assistance. Id. at 690, 104 S.Ct. at 2066. Additionally, the defendant must overcome a “strong presumption that counsel’s conduct falls within the wide range of reasonable professional assistance....” Id. at 689, 104 S.Ct. at 2065. Therefore, the defendant must rebut the presumption that the challenged action, under the

circumstances of the trial, would be “considered sound trial strategy.” Id. (citing Michel v. Louisiana, 350 U.S. 91, 101, 76 S.Ct. 158, 164 (1955)). “Strategic choices made after thorough investigation of law and facts relevant to plausible options are virtually unchallengeable.” Id. at 690, 104 S.Ct. at 2066.

To satisfy the second prong of the Strickland test, defendant must demonstrate that counsel erred so seriously that defendant was deprived of a fair trial with reliable results. Strickland, 466 U.S. 687, 104 S.Ct. at 2064; Williams v. Taylor, 529 U.S. 362, 120 S. Ct. 1495, 1511-12; State v. Russo, 333 N.J. Super. 119 (App. Div. 2000). In attempting to meet the requirements of the second prong, it is not sufficient to show that the alleged errors had some conceivable effect on the outcome of the proceeding. Strickland, 466 U.S. at 693, 104 S.Ct. at 2067. Defendant must show a reasonable probability that, but for counsel’s unprofessional errors, the result of the case would have been different. Id. at 694, 104 S.Ct. at 2068; Williams v. Taylor, supra, 529 U.S. 362, 120 S.Ct. at 1512 (2000); State v. Russo, supra, 333 N.J. Super. at 139. A reasonable probability is a probability sufficient to undermine confidence in the outcome. Strickland, 466 U.S. at 693, 104 S. Ct. at 2067.

In Rodriguez v. Rosenblatt, 58 N.J. 281 (1977), the New Jersey Supreme Court held that indigent defendants who face the possibility of imprisonment or a consequence of magnitude are entitled to have counsel assigned to them. Id. at 295. Alternatively, an indigent defendant may waive counsel and proceed pro se. Id. The New Jersey Supreme Court has directed that the “court should explain to the defendants the difficulties in acting as their own counsel and should specifically advise the defendants that it would be unwise not to accept the assistance of counsel.” State v. Crisafi, 128 N.J. 499, 512 (1992). In Crisafi, the New Jersey Supreme Court set forth the inquiry that the courts must engage in when determining whether a defendant can proceed pro se. The Court held that the trial courts must: (1) Notify the defendant of the charges against him, the defenses available to him, and the possible punishment if convicted. (2) The court should also inform the defendant of the technical risks and difficulties of proceeding pro se. (3) The court must inform the defendant that he is bound by the rules of court and evidence and that his lack of knowledge may hinder his ability to put forth an adequate defense. (4) Finally, the court should inform the defendant of the difficulties of representing himself and that it is inadvisable to proceed without an attorney. Id. at 511-12.

However, the New Jersey Supreme Court has held that “the ultimate focus must be on the defendant’s actual understanding of the waiver of counsel.”

Crisafi, 128 N.J. at 512. Also, “[i]t is for the court to determine whether an accused has knowingly and intelligently waived [the] right” to counsel.” Id. at 509.

Defendant waived her right to representation in a hearing that was not transcribed for the record. Before trial began, Judge Lange reminded defendant that she had waived her right to an attorney. [1T4-11 to -15]. Defendant informed the court that the State had not answered her demands for discovery, which included demands upon the victim. [1T7-9 to -20]. She also argued that she had filed several motions before the court. [1T10-1 to 13-13]. The municipal court judge informed defendant that her motions to dismiss the charges had been denied in previous proceedings. [1T13-13 to 14-7].

There is no support in the record before this Honorable Court to support defendant’s contentions that an attorney prejudiced defendant and that this attorney’s actions resulted in defendant’s conviction in the municipal court. There is no attorney named in the record. The only references to an attorney come from defendant stating that she had “an attorney” or will be getting “an attorney” for the appeal. When Judge Lange reminded defendant that she waived her right to an attorney, defendant did not object. [1T3-7 to 4-15].

At the Superior Court, Law Division, level, defendant was represented by Michael B. Cooke, Esq. Mr. Cooke filed a brief on her behalf and advanced

several arguments, which, if they had been successful, could have resulted in a finding of not guilty. Mr. Cooke did not suggest, as defendant now asserts, that his client was guilty. [Db25]. Rather, this Honorable Court must look to the context of the argument cited in defendant's brief:

Mr. Ackles testified to statements made outside of court to prove the truth of the matter asserted. Namely that Defendant was the perpetrator. On one occasion, Ackles stated in no uncertain terms that Mr. Lasisi's wife statement was the reason why he knew Defendant was the perpetrator ("that's how I knew it was you"). He also announced that he would quote her directly and then proceeded to quote her directly. The statement has the major defendant of all impermissible hearsay statements, which is that the declarant was not present in Court to be questioned. One might unfairly infer that Defendant admitted to the act to the witness. However, we don't know that because the witness was not there to be questioned and elaborate. It is possible she gleaned her information from the police whose testimony and investigative steps are also not on this record. It is possible that she received the information from any number of sources that may or may not be reliable, but we do not know, because she was not on the witness stand to ask. We do not know whether or she is being too credulous in believing any information she may have received because of her stated dim view of Defendant. It is also quite like that her knowledge came from out of Court statements, but we do not know.

[DA58-59; emphasis in the original].

Defense counsel clearly was not implicating defendant in the commission of the crime but listing the reasons why the lower court could have drawn adverse inferences from the victim's testimony.

Furthermore, trial counsel had the trial transcript when he filed the brief, as he cited it extensively. Filing the appeal and the motion for the stay before

receiving the transcript are not outside the objective reasonableness standard dictated by Strickland-Fritz. Mr. Cooke's actions did not result in defendant's conviction because he was prepared for the trial de novo and had the transcript in hand by the time he filed his brief. Defendant has asserted nothing that would allow this Honorable Court to determine that defendant received ineffective assistance of counsel at the trial court level. Defendant cannot succeed on this argument.

POINT II

DEFENDANT'S ADA CLAIMS AND DISCOVERY REQUESTS WERE NOT BEFORE THE SUPERIOR COURT, LAW DIVISION, JUDGE, WERE NOT A PART OF THE RECORD, AND CANNOT BE CONSIDERED ON APPEAL. (THIS ARGUMENT REFERS TO POINTS II AND III OF DEFENDANT'S BRIEF.)

There was nothing on the record for this Honorable Court to review regarding defendant's ADA claims nor has defendant asserted how her rights were violated. New Jersey Court Rules R. 2:5-4, R. 2:5-5, and R. 2:6-1 govern the contents of an appellant's appendices and briefs. Parties may not supplement or correct the trial record without the leave of the court nor may they rewrite it. R. 2:5-5; State v. Golotta, 178 N.J. 205, 211-12 (2003).

Defendant's brief and appendices refer to numerous documents which were listed as exhibits but not included in the court's record as evidence. Defendant's motion to expand the record was denied by this Honorable Court.

In her trial de novo, defendant did not raise any claims regarding the ADA accommodations. Defendant argues that the court's failure to allow her to attend the proceeding over video conferencing violated her request for accommodations, but she also argues that she could not attend because she lived out of State. Regardless, the arguments were not before the trial court, were not part of the official trial record, and rely heavily in part on emails sent by defendant. Defendant relies on the New Jersey Court Rules governing civil trials in support of her motion that her request for a postponement should have been granted. While a defendant has a right to be present at a trial de novo, his or her appearance may be waived. State v. Taimanglo, 403 N.J. Super. 112 (App. Div. 2006). As stated in Taimanglo, the matter is heard on the record created below and defendant did not move to supplement the record at the trial court level. This argument is unsupported by any credible evidence and does not vitiate or undermine the established record that supported her conviction.

Similarly, defendant's argument that the court violated defendant's right to discovery is unsupported by any credible evidence. Defendant argues that the State or the court ignored defendant's subpoena of the State's witness. However, Mr. Ackles appeared in court and testified. "[A]lthough defendant's are entitled to broad discovery under Rule 3:13-3, they are not entitled to turn the discovery process into a fishing expedition." State v. Broom-Smith, 406 N.J. Super. 228,

239 (2009). Defendant was provided all information relevant to her defense. Defendant argues that the subpoena would provide evidential support that Mr. Ackles lied. There is nothing on the record to support this baseless accusation. Defendant did not make any preliminary showing that the documents would have supported her accusations. See, e.g., State v. Kane, 449 N.J. Super. 119 (App. Div. 2017) (holding that a defendant could not compel the State to produce a victim's mental health records when they were not in the custody of the State). Defendant's arguments are without support and not founded in the record. They must be disregarded by this Honorable Court.

POINT III

JUDGE TARANTINO PROPERLY HELD THAT THE IN-COURT IDENTIFICATION OF DEFENDANT WAS ADMISSIBLE. (THIS REFERS TO POINT IV OF DEFENDANT'S BRIEF.)

Defendant contends that the trial testimony was comprised of inadmissible hearsay testimony. In State v. Allen, 236 N.J. Super. 58 (Law Div. 1989), a defendant argued on trial de novo that hearsay that was not objected to in the lower court was impermissibly admitted as evidence. In rejecting this argument, the court held that pro se defendants "risk the unfortunate consequences attending a lack of knowledge of the law. The same rules apply to them as apply to those who are represented." Id. at 60. Judge Haines held that "[a]ny error or omission shall be disregarded by the appellate court unless it is of such nature

as to have been clearly capable of producing an unjust result, but the appellate court may, in the interests of justice, notice plain error not brought to the attention of the trial or appellate court.” Id.⁴

Defendant contends that representing herself in court left her at a disadvantage because inadmissible hearsay came into evidence without objection. This argument is misplaced. First, defendant asked the questions that led, inescapably, to the contested statements. Defendant asked Mr. Ackles if he could have identified her mistakenly and Mr. Ackles responded that her stepmother identified her to defendant.

Second, defendant asked Mr. Ackles if he knew who defendant was before he filed the complaint against her. Mr. Ackles told defendant that her stepmother identified defendant before the police learned her name. [T27-4 to -19]. Defendant opened the door to the out of court identifications during her questioning of the victim. The victim simply answered a question defendant asked.

However, defendant’s arguments are moot, because, as argued above and acknowledged by Judge Tarantino, defendant proceeded pro se after being advised of the pitfalls of representing herself. [T5-15 to 6-11]. Not only did she

⁴ Defendant cites a case, State v. Allen, from Washington State. The arguments do not address the case cited in the State’s brief to the trial court as the State’s cited case was from New Jersey.

not object to the questions and answers, but she posed the now-offending questions and answers to the victim. Moreover, as Judge Tarantino properly held, the out-of-court identification and purported hearsay was rendered moot by Mr. Ackles in-court identification of defendant. [T36-21 to 37-3]. Mr. Ackles may not have known defendant's name, but he was certain that she was the woman who threatened and harassed him outside his home. [T28-1 to -18].

Judge Tarantino properly held, "In this case the real question is was the in-court identification proper and the Court finds that the witness', complaining witness' in-court identification of the defendant as the one that committed an offense against him was proper, unequivocal." [2T17-22 to 18-2]. As noted above, defendant's cross-examination of the victim led to the out-of-court identification of defendant. Defendant cannot object to the line of questioning when she was the person who elicited the information from the victim. Defendant cannot succeed on this argument.

POINT IV

THERE WAS SUFFICIENT CREDIBLE EVIDENCE ON THE RECORD TO PROVE DEFENDANT GUILTY OF DISORDERLY CONDUCT BEYOND A REASONABLE DOUBT. (THIS ARGUMENT ENCOMPASSES POINTS IV AND V OF DEFENDANT'S BRIEF.)

N.J.S.A. 2C:33-2a(1) states that a person is guilty of Disorderly Conduct if "with purpose to cause public inconvenience, annoyance or alarm, or

recklessly creating a risk thereof he [e]ngages in fighting or threatening, or in violent tumultuous behavior[.]” Two Appellate Division cases illustrate the wide variety of behavior that can be characterized as disorderly conduct. In State v. Oliver, 320 N.J. Super. 405 (App. Div. 1999), defendant’s conviction for disorderly conduct, in violation of N.J.S.A. 2C:33-2(a)2, was affirmed based on defendant’s continued surfing during a tropical storm, despite the attempts of six police officers to make defendant exit the ocean. The Oliver Court explained, “As a result of remaining in the dangerous surf, defendants created a dangerous condition, or, at the very least, a risk thereof, to themselves and the police and lifeguard personnel who would have been required to save defendants had an emergency arisen.” Id. at 422.

In State v. Stampone, 341 N.J. Super. 247 (App. Div. 2001), the Appellate Division concluded that defendant’s argument with a police officer and his slamming shut of a car door near the officer was not disorderly conduct as contemplated by N.J.S.A. 2C:33-2(a), because there was no evidence that passers-by noticed defendant’s actions. The defendant in Stampone was sitting in his legally parked vehicle when a police officer approached him, concerned about a recent burglary in the same neighborhood. Id. at 249. Defendant refused to provide the officer with identification after informing the officer that he was waiting for his girlfriend to return to her residence, in front of which his car was

parked. Id. at 250. After defendant complied with the officer's request that he provide him with identification, the officer opened the door of the defendant's car, and defendant slammed it shut, "almost" hitting the officer in the legs. Ibid.

The Appellate Division overturned defendant's conviction for disorderly conduct, finding that the State had failed to prove elements of N.J.S.A. 2C:33-2(a). Specifically, the Stampone Court noted that "[defendant] was not charged with nor found to have created a hazardous or physically dangerous condition that did not serve his own legitimate purpose." Id. at 254. Furthermore, the court concluded:

[T]he actions of defendant and his testy exchange with [the officer] had no capacity to cause public inconvenience, public annoyance or public alarm. **There was no indication that passers-by were noticing any of this or congregating or, indeed, that such persons were even present. Nor was there anything inherent in defendant's conduct as to make it likely that his colloquy with [the officer] would cause public inconvenience, annoyance, or alarm.**

Id. at 255 (emphasis added).

Common sense dictates that yelling death threats, playing loud music with racially charged language, and yelling racial epithets at a stranger on a public street has the ability to cause annoyance or alarm on the part of the listener and created a risk that her conduct could cause public inconvenience, annoyance or alarm. Defendant threatened to have her "boys from Brooklyn" come to

Burlington Township to kill Mr. Ackles. Defendant's conduct was intended to alarm Mr. Ackles. [T25-1 to -4]. Additionally, pursuant to N.J.S.A. 2C:33-2a(1), defendant need not have caused actual public inconvenience, annoyance or alarm to be found guilty of disorderly conduct. The statute also encompasses a risk of "public inconvenience, annoyance, or alarm," by engaging in fighting, threatening or in violent or tumultuous behavior. Defendant threatened Mr. Ackles and used racial epithets at him while in an area of her father's yard that was open to the street. N.J.S.A. 2C:33-2(b) defines public as "affecting or likely to affect persons in a place to which the public or a substantial group has access; among the places included are highways... or any neighborhood." State v. Shtutman, A-0812-15 (App. Div. 2017).⁵ [Pa8].

Defendant's argument that the courts used rap music to convict defendant and reliance upon State v. Skinner, 218 N.J. 496 (2014), is misplaced. In Skinner, the State sought to admit rap lyrics written by the defendant to show the defendant's motive and intent in killing the victim. Id. at 502-503. The New Jersey Supreme Court noted that the lyrics were violent and profane and had the ability to unfairly prejudice the jury against the defendant. Id. at 524-525.

⁵ Pursuant to R. 1:36-3 I have attached a copy of State v. Shtutmen, A-0812-15T2 (App. Div. 2017). I am unaware of any other relevant unpublished opinions adverse to this case.

Moreover, there was better, less prejudicial evidence available to establish motive and intent. Id. at 525.

Here, Judge Tarantino did not find defendant guilty of harassment because of the rap lyrics. Indeed, his only mention of rap music is in reference to defendant's credibility. Judge Tarantino noted that defendant disclaimed listening to rap music, but then defendant discussed her knowledge of rap lyrics at length during her testimony. [2T16-14 to -23]. The judge did not discuss the content of the lyrics nor did he use their content to support his finding of guilt. Similarly, in the municipal court, Judge Lange did not use the lyrics to support his finding of guilt or for N.J.R.E. 404b evidence.

While defendant argues that the lyrics were protected speech, her argument is misplaced. Defendant was not convicted because of the rap music she was listening to in her car. [1T20-20 to -25]. Defendant was convicted because her conduct fell squarely within the parameters of the Disorderly Conduct statute and the evidence overwhelmingly proved her guilt beyond a reasonable doubt. Defendant's argument must fail and her conviction must stand.

CONCLUSION

For the foregoing reasons, the State respectfully urges this Honorable Court to affirm defendant's convictions and sentences.

Respectfully submitted,

LACHIA L. BRADSHAW
BURLINGTON COUNTY PROSECUTOR

Date: January 26, 2024

/S/ Alexis R. Agre _____
By: Alexis R. Agre (Id#026692002)
Assistant Prosecutor

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-003576-22

STATE OF NEW JERSEY
PLAINTIFF-RESPONDENTS

CRIMINAL ACTION
ON APPEAL FROM TRIAL DE NOVO
SUPERIOR COURT, LAW DIVISION
BURLINGTON COUNTY, NEW JERSEY

V.

SHAKIRA LASISI
DEFENDANT-APPELLANT

HONORABLE MARK TARANTINO
SAT BELOW

REPLY BRIEF
FOR
SHAKIRA LASISI, APPELLANT

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STATEMENT OF FACTS AND PROCEDURAL HISTORY

Shakira Lasisi (herewith in “Defendant”) relies on its Statement of Facts and Procedural History as set forth in its initial brief. Defendant seeks to highlight, however, the following facts in the record.

The Superior Court of New Jersey, Burlington Vicinage issued a Judgment of Conviction against the Defendant on April 24, 2023, in violation of N.J.S.A 2C:33-2a(1), supporting the State of New Jersey (herewith in “Plaintiff”) meeting their judicial findings upon de novo of the municipal trial proceeding on November 29, 2022. In the Plaintiff’s submitted April 18, 2023, de novo brief, the State of New Jersey set forth the following beliefs, as to why it had met its appeal obligations, and specifically asking the Superior Court to finalize the judgment of conviction upon trial de novo.

First, according to the Plaintiff, they argued that all discovery had been provided to the Defendant, with the Defendant equally arguing, the Plaintiff provided discovery *however*, the tangible discovery file was incomplete [AP 1]¹ including the Plaintiff’s missing witness information and testimony by A. Lasisi. Her testimony is heavily utilized in the Plaintiff’s de novo final conviction request [AP 62 and 2T5-7 to -16]². Both trial courts did not deny the possibility of missing discovery by the Plaintiff; including the Plaintiff not recollecting if they received the additional request from the Defendant with the Plaintiff requesting the trial court to conduct an in-court file review [T9-1 to -13] and

¹ AP represents appendix section of brief

² 2T represents the transcript of the April 24, 2023 de novo appeal

[T40-5 to -9]. The trial court did not conduct an in-court file review, deemed the Defendant did not properly submit her habitual discovery follow up requests per court rules [AP 59] and [T40-10 to -14] and proceeded to mock the Defendant's request as a form of a fishing expedition [AP 59] and [T13-9 to-12].

Second, the Plaintiff treacherously accuses the Defendant of several lack luster, racist behavioral claims, outlining frustrations in their de novo brief and ultimately blaming the Defendant solely of delaying the criminal matter in its entirety. Accusations were simply opinionated, as well as, unsubstantiated against the Defendant [AP 62 and AP 75] when the Plaintiff had the Defendant's substantiated evidence detailing her whereabouts when she submitted her motion to dismiss request that resulted in the downgrade charge currently on appeal.

The submissions to the Superior Court were incomplete, detailing one transcript, knowledge discovery transmission issues and the Defendant's motion to dismiss {with her substantiated evidence} dismissed that resulted in the Defendant's erroneous de novo conviction by the Honorable Mark Tarantino. The Plaintiff utilizes the same unsubstantiated approach to the court when presenting the testimony of presumed victims, Gregory Ackles, A. Lasisi, Rodquita Dallad, Raashid B. Adowa, their listed whereabouts, and ending with profound certainty of the Defendant's location according to each date supplied by their sole produced witness, Gregory Ackles.

The Plaintiff's biased opinions against the Defendant portrays her as an aggressive African woman who is smaller than the opinionated overly angelic, innocent large and much taller African American males, Raashid B. Adowa and Gregory Ackles. Furthermore, the Plaintiff introduces the victim Rodquita Dallad with the result of her being a phantom witness with the phone number directly correlating back to former felon, Raashid B. Adowa. The Plaintiff and Superior Court continues to deny the fact of Gregory Ackles testifying on behalf of Lasisi Sr.'s significant other, A. Lasisi; further denying the Defendant's multiple Motion to Compel Discovery Requests and the easily verifiable fact she is a person with disabilities under the Americans with Disability Act 1990 and ADA Amendments Act of 2008. The trial court erred when accepting Gregory Ackles' shoddy, wavering recount and deficient testimonies of him and A. Lasisi against, A. Lasisi's family members, the Defendant Shakira Lasisi and Lasisi Sr. [2T14-23 to -25] and [2T15-1 to -20]

However, the Plaintiff or Gregory Ackles presented any information beyond reasonable doubt, with credibility and certainly that the Defendant was or was not at the location, on said date or the actual threat; they also did not present any information beyond reasonable doubt that Gregory Ackles was at the location on these said dates of terroristic threats. The Defendant requested this information by way of the subpoena with the Plaintiff electing to ignore this pertinent information to their case. The fact of the matter is, Gregory Ackles could not remember what was said or the dates without the

assistance of trial Judge, feeding and repeating what Gregory Ackles testified to initially over a year ago [T3-16 to -26]. Gregory Ackles could not only recall what occurred, he couldn't recall pertinent dates, omitted testimony, failed to comply with court rules by answering to the Defendant's subpoena that would confirm his whereabouts for each of his recorded dates/times and he specifically indicated he couldn't remember certain parts of his story³.

The Defendant immediately pursue an appeal as she informed the trial court post finding the Defendant and her alibi/witness, Lasisi Sr. both non-credible, biased, lack of consistency, self-serving and due to the fact they were relatives; but allowing testimony of A. Lasisi, who is the relative of both the Defendant and Lasisi Sr. to be held credible upon the delivery of Gregory Ackles. In addition, the trial court Judge dismisses the fact of Lasisi Sr. credibility when he expressed Gregory Ackles has posed a threat with bullying tactics to Lasisi Sr., his significant other A. Lasisi and his children in the past [T52-24 to -26] and [T53-1 to -21].

Gregory Ackles forceful, unwelcomed demeanor is very consistent; he inserts himself by giving testimony on behalf of the Defendant's relative (when she could have done so herself), giving testimony on behalf of the Plaintiff's violent victim, Raashid B. Adowa (when the Plaintiff could have done so himself, called to testify and with Lasisi Sr. as witness to his violent behavior [AP4] and then again during trial when he forced

³ [T30-1 to -4], [T32-1 to -4], [T34-10]

his temper tantrum, began shouting and pointing his finger at the Defendant in front of her father, Lasisi Sr. Gregory Ackles blatantly and consistently disregarded the court, its demeanor, standards, rules while creating chaos and utilizing intimidation tactics towards the Defendant and again towards Lasisi Sr.

LEGAL ARGUMENTS

POINT I: COURT WAS DISIMILAR IN THEIR COURT RULE STANDARDS THAT SHOULD BE UPHELD BY THE DEFENDANT VERSUS THE PLAINTIFF (MOTION TO COMPEL, MOTION TO DISMISS AND SUBPEONA)

The Plaintiff did *not* argue that discovery had been provided or contended that the only outstanding material was material about the victim, which required the victim to answer the Defendant directly. The Prosecutor indicated he felt the additional discovery the Defendant requested was not appropriate and couldn't remember what she requested. He casually mentions the cease-and-desist letter sent to Gregory Ackles [T9-1 to -13].

The Defendant did *not* argue that she filed motions to dismiss or resubmission to obtain discovery. She was often interrupted; but she was able to inform the trial court she conducted the discovery resubmission per Judge's instructions [T10-1 to -10]. The trial court Judge reverses the Prosecutor's response, indicating for certain she didn't submit a specific motion for additional discovery [T13-14 to -15], however in the Plaintiff's de novo Brief, the trial Judge timestamps the Defendant to submit the additional discovery request on May 24, 2022, although the trial court Judge makes no mention of said date.

The trial court Judge then asks what the Defendant wants although it was submitted to the court for his prior review, she's interrupted during her response with the outcome of his guided request to her as denied and deemed as "fishing expeditions" [T13-9 to -12].

The Plaintiff furthers their negative narrative of the Defendant's character by indicating she failed to show up in court on May 10, 2022, she told the court she was for certain going to hire an attorney on July 5, 2022, on August 16, 2022 she told the court she was going to file a motion for body worn camera footage but she never submitted the motion and that she had an alibi. All information is untrue and without factual context either by way of transcripts or the initial party present during trial. Also, the Defendant is aware a motion is not required to request body worn camera footage. This is public information and can be supplied upon request to the designated police department pursuant to N.J.S.A. 47-1A-9a.

The Defendant informed the Plaintiff she did *not* have an alibi prior to trial and off-the-record [AP 3] and informed the court as well with the court instructing to submit a list of her witnesses which occurred the same day via email.

**POINT II: PLAINTIFF'S SOLE WITNESS COMMITTED PURJURY
RESULTING IN PLAINTIFF INCONSISTENCY WITH TERMS OF EVENTS**

The Plaintiff indicates in their de novo brief that Gregory Ackles retreated to his house because he took her threats seriously and was fearful but did not call the police [AP 3].

He informs the court that he shrugs off the behavior deeming it as, "maybe she's having a

bad day” and then indicates “because I don’t know who she is” [T21-1 to 3]. In the Plaintiff’s discovery documents, Gregory Ackles initially places blame on Burlington Police Department saying it was them identifying her [T32-12 to 22] then he says he gave the Police Department, the Defendant’s license plate number and vehicle information [T32-1 to -4] however the discovery documents provided by the Plaintiff, did not disclose this information. The Defendant’s driver’s license number {not her license plates} was provided.

Nowhere in his testimony does he place Burlington Police Department at the scenes of the alleged periodic crimes involving him and/or the Defendant. The Plaintiff informs in their de novo brief, Lasisi Sr. confirms police officers were not seen at or around their conjoining residencies on one of the alleged crime dates [AP 5]. The Plaintiff also informs the trial court Gregory Ackles did not know the Defendant before November 2, 2021 [T52-16 to -19].

Since Gregory Ackles could not recollect on pertinent identification specifics, he further shifts blame to Lasisi Sr.’s ex-wife (and Defendant’s mother) to then Lasisi Sr.’s significant other A. Lasisi; this time with a sense of memory placing A. Lasisi at the scene, on November 9, 2021, when giving testimony on her behalf. He goes on by expressing his identification quest, resulted in success of certainty it was the Defendant at each incident, when he says A. Lasisi approaches him.

Gregory Ackles indicates the Defendant was mowing the lawn in the middle of the night, around 10:00 p.m. to 10:15 p.m., loud music was played, screaming match filled with racist, vulgar, profanity filled language⁴. However, as the Plaintiff cross examines Lasisi Sr. he indicates that he was at home on November 2 and November 7, 2021; there's no mention of lawn mowing activity, heated argument between Gregory Ackles and the Defendant, loud music with profanity expressing the word Nigger repeatedly, screaming, profanity exchange, the police present or called, and that Defendant was not at the residence. The Plaintiff or Lasisi Sr. doesn't mention any of Gregory Ackles' alleged events/activities of the Defendant [T49-2 to -25, T50-1 to -18]⁵.

POINT III: SUPERIOR COURT ERRED BY FINDING THE DEFENDANT GUILTY OF DISORDERLY CONDUCT N.J.S.A. 2C:33-2a(1) BASED ON PLAINTIFF INCONSISTENCY

Judge Tarantino examined defendant's question: "Was there anybody besides me, did you see anybody there that day?" [2T16-10 to -18]. He held that question constituted an admission that defendant was present at her father's house on the day of the incident. [2T16-16 to -18]. The Defendant provided motions to dismiss to the Superior court detailing her whereabouts on each of Gregory Ackles' alleged dates, that resulted in the downgrade on appeal; however, the municipal court dismissed the motion to dismiss

⁴ Burlington Township noise ordinance code 360-1 to -3 details excessive noise prohibited, noises enumerated and exceptions.

⁵ Unlike the issue with Raashid B. Adowa, where Lasisi Sr. heard the commotion and stopped Adowa from striking his daughter, the Defendant, with his fist [AP 48]

recounting the Defendant's whereabouts and the Superior to reverse their initial decision of the motion to dismiss and upholding the conviction of a lesser charge. The Superior court held Defendant testified inconsistently about her knowledge of rap music and [2T16-19 to -23], then holds Plaintiff's witness, Gregory Ackles, lyrical content of multiple mentions of the word Nigger as irrelevant when he is insinuating, she is a racist and disorderly. The court then erroneously finds the Defendant guilty of disorderly conduct beyond a reasonable doubt⁶. The court further noted defendant made remarks that included a promise of violence to the victim. [2T19-24 to 20-4] when there is no proof of such offense.

Judge Tarantino improperly held that the in-court identification of Defendant was Admissible; this refers to Point 3 of Defendant's De Novo Brief and Point IV of Defendant's Appellate Brief) Based on Point 3 of Defendant's de novo brief by Esquire Cooke:

Without the hearsay testimony by Ackles about Mr. Ackles wife's⁷ statement, without the states by police about Defendant's identity, and without evidence about how the police identified Defendant to Ackles, the State's case rests on bald identification by Ackles of the person sitting in the Defendant's chair in the Courtroom, which defendant denied. Any confidence in Ackles demeanor in asserting his belief that Defendant is the perpetrator is undermined by his own testimony that his identification is mainly or entirely based upon unreliable and impermissible identification by others made

⁶ According to NJ Rev Stat 2C:1-13 (2022), starting with 2C:1-13(a) no person may be convicted of an offense unless *each element* of such offense is proved beyond a reasonable doubt.

⁷ Defendant's de novo brief had an error, should have said "Mr. Lasisi's wife"

outside of Court. For these reasons, this court should dismiss the Complaint against Defendant [AP 36].

The Appellant, as pro se, furthers Counsel's point by informing Gregory Ackles testimony is not only unreliable he committed perjury. Appellant's Point IV indicates:

The plaintiff's Witness Ackles opened the door to in-court and out-of-court identifications 50 . His November 8, 2021 signed complaint counters his hearsay testimony of A. Lasisi giving him the defendant's name on November 9, 2021; he counters again when he says he actually "knew" the defendant as of November 2 (IT18:15-16) relieving Burlington Township Police Department and A. Lasisi. Although he relieves those he shift blames, he continues to counter his identification testimony when he repeatedly changes his narrative 1T32:21-26, 1T34:4-6, 1T35:14-22, 1T36:2-9, 1T36:10-16 and failed to update his November 8, 2021 signed statement indicating he knew the defendant because of A. Lasisi (AP 10) as of November 9, 2021.

Furthermore, the plaintiff blatantly did not call upon their witnesses for testimonies from Roquita Dallard, Raashid Adowa, but introduced hearsay testimony from the Ackles, on behalf the defendant's witness' significant other, A. Lasisi. The defendant entered her defenses and objections before, during and after trial per R. 3:10-2(d), R. 3:10-2(e), 1T19:4-18, 1T30:15-25 and 1T59:21.

CONCLUSION

At no point in time did the Defendant's father testify on the defendant's behalf as indicated in the Plaintiff's brief [AP 4] and contradicts their narrative in their opening statement along with misstating the incorrect charge [AP 61]. However, with the initial trial court Judge, he habitually referred to the incorrect charge to the point, the Defendant submitted her concern(s) in a form of a complaint, along with an informal request for the municipal court Judge to recuse himself.

Defendant's disability and rights under the Americans with Disability Act has been consistently dismissed and ignored including while under de novo counsel, Michael B. Cooke, Esquire, who waived the Defendant's appearance due to the court denying her right to enter the Superior court under the federal statute, Americans with Disability Act. This is the same Superior Court that has consistently approved alternate access with success in conducting her hearings in virtual format or alternate day where her health status was in a stronger state.

The Plaintiff mentions Superior Court Judge Tarantino found it difficult to determine Lasisi Sr.'s credibility due to the Defendant, *when in fact* he emphasizes two reasons: (1) the questions asked to him were deemed as leading and (2) his answers when transcribed, were dictated as *indiscernible*.

The Plaintiff begins their argument mentioning, “Defendant’s arguments as to effective assistance of counsel were not raised at the trial court level”. The Defendant’s right to court access were violated; this is the same issue raised at the municipal court level with a partial highlight in their de novo brief by the Plaintiff to the municipal court Judge.

Same for Defendant’s ADA Claims and Discovery Request; there were before the Superior Court, Law Division and Municipal Court and are part of the record that can be considered on appeal Both courts have an establish habit of not allowing persons entry into the court according to court rules, state and/or federal laws and procedures. There was not sufficient credible evidence on the record to prove the Defendant guilty of disorderly conduct beyond a reasonable doubt.

The Plaintiff did not provide any evidence to support the Defendant’s downgrade. The Plaintiff’s sole witness utilized hearsay by the Defendant’s family member and introduced rap music lyrical content by some unknown rap musician. Lyrical content is not misplaced as the Plaintiff argues; their sole witness introduced lyrical content as part of his testimony to characterize and insinuate the Defendant as a racist and disorderly. Gregory Ackles furthers his characterization of the Defendant when he misplaced the Defendant at these chronological alleged crime scenes screaming the word “Nigger” and “I’m going to kill you” which in turn was utilized to charge the Defendant initially with a

felony and then downgraded to a municipal. Information was supplied to both of the courts to recount the Defendant's whereabouts along with a subpoena to the Plaintiff's witness to equally show his whereabouts; this pertinent information is simply ignored.

For these reasons, the Defendant requests the Appellate Division to reverse the Defendant's conviction and sentence.

I hereby certify that the foregoing statements made by me are true. I am aware if any of the foregoing statements are willfully false, I am subject to punishment.

Respectfully submitted,



Shakira A. Lasisi