

**NOT FOR PUBLICATION WITHOUT THE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

This opinion shall not "constitute precedent or be binding upon any court."
Although it is posted on the internet, this opinion is binding only on the
parties in the case and its use in other cases is limited. R.1:36-3.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-3997-14T1

STATE OF NEW JERSEY,

Plaintiff-Respondent,

v.

RONALD W. WORTHY, a/k/a
RONALD GOOLY, a/k/a RONALD
WISE, a/k/a TYRONE JONES,

Defendant-Appellant.

Submitted December 20, 2016 – Decided March 1, 2017

Before Judges Espinosa and Suter.

On appeal from the Superior Court of New
Jersey, Law Division, Ocean County, Indictment
No. 14-06-1621.

Joseph E. Krakora, Public Defender, attorney
for appellant (Frank M. Gennaro, Designated
Counsel, on the brief).

Joseph D. Coronato, Ocean County Prosecutor,
attorney for respondent (Shiraz Imran Deen,
Assistant Prosecutor, on the brief).

PER CURIAM

Defendant Ronald W. Worthy appeals a March 13, 2015 order
that denied his motion to correct an entry in his pre-sentence
report. We affirm the denial.

In 2015, defendant pled guilty to third-degree resisting arrest, N.J.S.A. 2C:29-2(a) (Count One), and third-degree possession of a controlled dangerous substance (cocaine), N.J.S.A. 2C:35-10(a)(1) (Count Seven). The State dismissed the remaining counts of the eight-count indictment and two disorderly persons charges, and requested a custodial sentence in the aggregate of five years, although the court was asked to "strongly consider a sentence of three years . . . concurrent."

A pre-sentence report was prepared. N.J.S.A. 2C:44-6(a); R. 3:21-2. Defendant objected to one entry in the pre-sentence report that listed an adjudication on March 15, 1983 of criminal sexual contact when he was a juvenile.¹ Defendant's motion to correct the record was denied by Judge Wendel Daniels on March 13, 2015, just before sentencing defendant to two concurrent three-year terms of incarceration on the two counts to which he pled guilty. The remaining counts were dismissed.

Defendant appeals the order by Judge Daniels that denied his motion to correct the record. He alleges that the inclusion of this adjudication may affect his classification in prison and his parole. Defendant does not challenge his guilty plea or sentence.

¹ The appendices did not include a copy of defendant's motion.

We apply a deferential standard of review to the factual findings of the trial court. See State v. Elders, 192 N.J. 224, 244 (2007). "An appellate court should not disturb the trial court's findings merely because 'it might have reached a different conclusion.'" Ibid. (citing State v. Johnson, 42 N.J. 146, 162 (1964)). Thus, we accept factual findings when they are "supported by sufficient credible evidence in the record." Id. at 243 (citations omitted).

The pre-sentence report is prepared "[b]efore the imposition of a sentence or the granting of probation." R. 3:21-2(a). It includes any "presentence material having any bearing whatsoever on the sentence." Ibid. Because the pre-sentence report is given "due consideration" in sentencing, Pressler & Verniero, Current N.J. Court Rules, comment 3 on R. 3:21-2 (2017) (citing State v. Jaffe, 220 N.J. 114, 121-22 (2014)), it is important that the information is accurate. See State v. Leckis, 79 N.J. Super. 479, 485 (App. Div. 1963) (citing State v. Pohl 61 N.J. Super. 242 (App. Div. 1960)). The defendant is "entitled to . . . fair opportunity to be heard on any adverse matters relevant to the sentencing." State v. Green, 62 N.J. 547, 564 (1973) (internal quotation marks omitted) (quoting State v. Kunz, 55 N.J. 128, 144 (1969)).

We discern no error by Judge Daniels in finding that in 1983 defendant was adjudicated under Juvenile Delinquency Complaint J-1522-82 for criminal sexual contact, N.J.S.A. 2C:14-3(b). Defendant raised the same alleged inaccuracy of his record in an earlier sentencing proceeding. That challenge resulted in a February 28, 2008 order by another judge that clarified the record to provide: "[w]ith respect to the entry regarding Juvenile complaint J-1522-82, an entry should be added that the Official Court Records of Ocean County do not reflect that there was a guilty plea or trial with respect to the charge of criminal sexual assault."

The March 4, 2015 pre-sentence report, which is the subject of this appeal, again included an entry showing defendant had been adjudicated in 1983 for criminal sexual contact. Defendant acknowledges that the information before Judge Daniels included records that were not available in February 2008, and which were found during an additional investigation prior to defendant's 2015 sentencing. Those records include the Juvenile Delinquency complaint for J-1522-82 that charged defendant with criminal sexual assault, an offense that would violate N.J.S.A. 2C:14-2(b)(1) if charged as an adult. The complaint included a handwritten notation indicating the assault charge was amended to "N.J.S.A. 2C:14-3(b)," which is the statute for criminal sexual

contact. The parties agree that the official juvenile record at that time was maintained on notecards with typewritten entries. The card for the questioned offense indicated the hearing was adjourned on February 8, 1983. The next entry on the card is March 15, 1983, and provided that defendant was sentenced by Judge William J. Kearney to an indeterminate term at the Youth Reception Center at Jamesburg, New Jersey (Jamesburg). There then was an order from Judge Kearney dated March 15, 1983 that remanded defendant to Jamesburg for an indeterminate period for his "conviction" of seven offenses including J-1522-82, which was listed as "criminal sexual contact, 2C:14-3(b), [n]ot to exceed three years."


Based on the records, Judge Daniels found there was adequate information to conclude that defendant was convicted on the charge of criminal sexual contact. None of the parties here have asked to change the February 28, 2008 order.

We see no error by Judge Daniels in denying defendant's motion to change the pre-sentence report. There was ample evidence defendant was convicted under N.J.S.A. 2C:14-3(b) in 1983, and that this was the basis for his sentence to Jamesburg. This is borne out by the juvenile complaint, the index card and Judge Kearney's order remanding defendant to Jamesburg. Defendant has shown no evidence to the contrary. The fact that the prior judge's

order of February 28, 2008 found there was no guilty plea or trial on the criminal sexual assault charge is not inconsistent with Judge Daniels' order, because defendant was adjudicated on criminal sexual contact, not assault.

Affirmed.

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


CLERK OF THE APPELLATE DIVISION