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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-1611-15T1

STATE OF NEW JERSEY,

Plaintiff-Respondent,

v.

HASAN BRUCE, a/k/a  
HASSAN BRUCE,

Defendant-Appellant.

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Submitted January 11, 2018 – Decided January 25, 2018

Before Judges Haas and Gooden Brown.

On appeal from Superior Court of New Jersey,  
Law Division, Atlantic County, Indictment No.  
13-04-1116.

Joseph E. Krakora, Public Defender, attorney  
for appellant (Stephen W. Kirsch, Assistant  
Deputy Public Defender, of counsel and on the  
brief).

Christopher S. Porrino, Attorney General,  
attorney for respondent (Sarah C. Hunt, Deputy  
Attorney General, of counsel and on the  
brief).

PER CURIAM

Following a bench trial, the judge found defendant guilty of first-degree aggravated manslaughter, N.J.S.A. 2C:11-4(a), as a lesser-included offense of first-degree murder, N.J.S.A. 2C:11-3(a)(1) and (2) (count one); and second-degree unlawful possession of a handgun, N.J.S.A. 2C:39-5(b) (count four). The judge found defendant not guilty of first-degree conspiracy to commit murder, N.J.S.A. 2C:5-2 and N.J.S.A. 2C:11-3 (count two); and second-degree possession of a weapon for an unlawful purpose, N.J.S.A. 2C:39-4(a) (count three).<sup>1</sup>

The judge sentenced defendant to eighteen years in prison on count one, subject to the 85% parole ineligibility provisions of the No Early Release Act, N.J.S.A. 2C:43-7.2, with five years of parole supervision upon release; and to a consecutive six-year term on count four with a three-year period of parole ineligibility. This appeal followed.

On appeal, defendant raises the following contentions:

POINT I

THE TRIAL JUDGE'S STATED REASONS FOR REJECTING THE CLAIM OF SELF-DEFENSE AT THIS BENCH TRIAL INDICATE A FUNDAMENTAL MISUNDERSTANDING OF THE LAW OF SELF-DEFENSE, AND, THUS, THE VERDICT FOR AGGRAV[A]TED MANSLAUGHTER MUST BE REVERSED AND THE MATTER REMANDED FOR TRIAL.

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<sup>1</sup> Defendant was tried along with his brother, who faced the same charges. However, the judge dismissed the charges against defendant's brother at the end of the State's case.

POINT II

THE MATTER SHOULD BE REMANDED FOR RESENTENCING  
TO CONCURRENT TERMS.

Our review of a judge's verdict in a non-jury case is limited. The standard is not whether the verdict was against the weight of the evidence, but rather "whether there is sufficient credible evidence in the record to support the judge's determination." State ex rel. R.V., 280 N.J. Super. 118, 121 (App. Div. 1995). Moreover, we are obliged to "give deference to those findings of the trial judge which are substantially influenced by [the] opportunity to hear and see the witnesses and to have the 'feel' of the case, which a reviewing court cannot enjoy." State v. Locurto, 157 N.J. 463, 471 (1999) (quoting State v. Johnson, 42 N.J. 146, 161 (1964)).

"[T]he factual findings of the trial court are binding on appeal when supported by adequate, substantial, credible evidence." State ex rel. W.M., 364 N.J. Super. 155, 165 (App. Div. 2003). "[W]e do not disturb the factual findings and legal conclusions of the trial judge unless we are convinced that they are so manifestly unsupported by or inconsistent with the competent, relevant and reasonably credible evidence as to offend the interests of justice[.]" Rova Farms Resort, Inc. v. Investors Ins. Co. of Am., 65 N.J. 474, 484 (1974) (quoting Fagliarone v.

Twp. of N. Bergen, 78 N.J. Super. 154, 155 (App. Div. 1963)). After considering these standards, we discern no basis for interfering with the judge's well-developed findings, conclusions, and disposition of the charges against defendant.

Here, defendant admitted he shot the victim, but claimed he did so in self-defense. "A person may justifiably use force against another if he [or she] 'reasonably believes that such force is immediately necessary for the purpose of protecting himself [or herself] against the use of unlawful force by such other person on the present occasion.'" State v. Galicia, 210 N.J. 364, 389 (2012) (quoting N.J.S.A. 2C:3-4(a)). "The use of deadly force is not justifiable . . . unless the actor reasonably believes that such force is necessary to protect himself [or herself] against death or serious bodily harm[.]" N.J.S.A. 2C:3-4(b)(2). Moreover, the use of deadly force is not justifiable if "[t]he actor knows that he [or she] can avoid the necessity of using such force with complete safety by retreating . . . ." N.J.S.A. 2C:3-4(b)(2)(b).

Applying these principles to the facts developed at trial, the judge properly concluded that the State disproved defendant's claim of self-defense beyond a reasonable doubt. Defendant and the victim were both having a relationship with the same woman. On the day the victim died, defendant's brother went to the

victim's home and asked to speak to him. The victim accompanied defendant's brother to a corner where defendant was waiting. A witness testified that the three men were speaking normally, and were not arguing. When the victim returned to the house, he told the witness that "it was dead," meaning there was no longer a problem.

However, defendant called the victim later that night and argued with him. After the call ended, the victim told his friends that he was about to fight, tucked a gun in his clothing, and left the house. Two of the victim's friends followed from a distance. By this time, defendant and his brother had driven to the middle of the block. Defendant got out of the car.

The victim approached defendant with his arms up and his hands open and empty, and said, "what's up?" Defendant put his hand on the gun he was carrying and he and the victim began walking toward each other. The victim asked defendant what he was reaching for and, when the two men were face to face, the victim moved to "push [defendant] and trie[d] to reach and [defendant] had [his] hand on [his] gun already." Defendant admitted he "never did see a gun in [the victim's] hand."

Defendant then shot the victim twice. According to the autopsy, the first bullet struck the victim in the base of his neck. Defendant shot the victim a second time in the back as he

was running away. The medical examiner testified that either of the two shots would have proven fatal.

Defendant testified he felt threatened because he believed the victim "was a gangster," who sent their mutual girlfriend a threatening text message about defendant a couple of days before the shooting, and had posted a similar message on a social media account. For this reason, defendant stated he was "not just about to sit around and let [the victim] do something to [him]."

Based upon these facts, the judge concluded that defendant did not have an objectively reasonable belief that deadly force was necessary to defend himself. In so ruling, the judge found "[t]here can be no question that the perceived threat of the victim reaching for a gun was provoked by . . . defendant's own provocative conduct" and that "th[e] entire sequence of events . . . was caused by . . . defendant's conduct." The judge noted that defendant never saw a gun in the victim's hand and, therefore, had "no objective[ly] reasonable basis . . . to believe he was about to be shot by the victim."

After reviewing the record, we conclude that the judge's factual findings are fully supported by the record and, in light of those facts, his legal conclusions are unassailable. We therefore affirm substantially for the reasons that the judge

expressed in his well-reasoned oral opinion at the conclusion of the trial.

In Point II, defendant argues that his sentence was excessive. We disagree.

Trial judges have broad sentencing discretion as long as the sentence is based on competent credible evidence and fits within the statutory framework. State v. Dalziel, 182 N.J. 494, 500 (2005). Judges must identify and consider "any relevant aggravating and mitigating factors" that "are called to the court's attention[,]" and "explain how they arrived at a particular sentence." State v. Case, 220 N.J. 49, 64-65 (2014) (quoting State v. Blackmon, 202 N.J. 283, 297 (2010)). "Appellate review of sentencing is deferential," and we therefore avoid substituting our judgment for the judgment of the trial court. Id. at 65; State v. O'Donnell, 117 N.J. 210, 215 (1989); State v. Roth, 95 N.J. 334, 365 (1984).

We are satisfied the judge made findings of fact concerning aggravating and mitigating factors that were based on competent and reasonably credible evidence in the record, and applied the correct sentencing guidelines enunciated in the Code, including the imposition of consecutive sentences. Accordingly, we discern no basis to second-guess the sentence.

Affirmed.

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