SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-2868-21

STATE OF NEW JERSEY,

Plaintiff-Respondent,

v.

SADDLE MOUNTAIN, LP,

Defendant-Appellant.

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Submitted April 24, 2023 – Decided April 28, 2023

Before Judges Whipple and Mawla.

On appeal from the Superior Court of New Jersey, Law Division, Passaic County, Municipal Appeal No. MA-6266.

Jeffer, Hopkinson & Vogel, attorneys for appellant (Allan B. Thompson, on the briefs).

Cooper Levenson, PA, attorneys for respondent (Justin D. Santagata, on the brief).

PER CURIAM

Defendant Saddle Mountain, LP appeals from a May 4, 2022 Law Division order finding it guilty of violating Borough of Ringwood ordinance § 26-9.1, which regulates the hours of operation of defendant's quarry business. We affirm.

The ordinance in question provides as follows:

> § 26-2 DEFINITIONS. . . .
>
> . . . .
>
> QUARRY—Shall mean a place where stone, rock, ore, sand, gravel, slate, shale or similar mineral resources are extracted, blasted, excavated, crushed, washed, graded, stored or otherwise processed for use on or off of such property. Quarry shall also mean to perform the act of quarrying.
>
> QUARRY PROPERTY—Shall mean all real property upon which a quarry is located.
>
> . . . .
>
> § 26-9 REGULATIONS OF OPERATIONS.
>
> § 26-9.1 Hours of Operation. . . .
>
> Extraction, the sale or trucking of extraction materials, operation of equipment, and installation of site improvements may be conducted only from Monday through Thursday between the hours of 7:00 a.m. and 6:00 p.m. and on Friday from 7:00 a.m. to 5:00 p.m. No motor vehicle shall enter upon the quarry property for the purpose of obtaining any materials extracted from the quarry property or for the purpose of delivering any

> materials, equipment, supplies or other items except during the hours when the sale or trucking of extraction materials is permitted.

The matter was tried in the municipal court. The State called the borough's code enforcement officer,[1] and defendant called its environmental and licensing manager as witnesses.

The enforcement officer testified that on August 25, 2021, he saw trucks idling on defendant's driveway, forming a line extending into the roadway. He took pictures of the trucks bearing time stamps, which showed the trucks on the driveway at 6:46 a.m. Pictures taken at 6:59 a.m. showed there were no trucks on the driveway because defendant let them onto its property. The witness took a picture of a truck, which had been first in the waiting line, exiting defendant's property at 7:11 a.m., loaded with materials from the quarry. The following day, the borough issued defendant two complaint-summonses for exceeding the "allowable hours of operation" of its quarry in violation of § 26.9-1.

Defendant's witness testified defendant had been warned by the enforcement officer about trucks coming to the property before 7:00 a.m. and defendant put up signage and told trucking companies to have their drivers "stay

[1] The State also called the borough's assistant superintendent of public works, but his testimony does not figure in the trial court's determination or ours, because it pertained to a violation that was dismissed.

away [from the property] until [7:00 a.m.]" Further, he explained the quarry gate could not be moved from its location inside the property to the edge of the property—near the roadway—because it would cause trucks to line up on the roadway and create a hazard. Notably, defendant's witness admitted the driveway was a part of the quarry. Defendant also attempted to rebut the State's evidence showing defendant let trucks onto the property before 7:00 a.m. by producing a report showing trucks were weighed in and weighed out of the property after 7:00 a.m.

In summations, defendant argued: the driveway did not fall into the ordinance's definition of the quarry; it had taken steps to keep truckers away from the property; and the State failed to prove beyond a reasonable doubt that defendant admitted trucks onto the property prior to 7:00 a.m. The municipal court judge found the State's witness credible and defendant's witness partly credible. The judge found defendant guilty of violating § 26.9-1 by permitting trucks to enter the quarry before 7:00 a.m. and rejected defendant's argument the driveway was not part of the quarry.

Defendant appealed to the Law Division, repeating its argument the State did not meet its burden of proof because defendant did not own or control the trucks that visited the quarry, and could not be held liable for their actions.

Defendant argued the first sentence of § 26.9-1 applied to it, whereas the second sentence put the responsibility for compliance on the truckers. It also asserted the borough recognized defendant could not put up a gate abutting the roadway because it would be dangerous. Further, the driveway could not be considered the quarry because no quarrying activity occurred there as defined in the ordinance, and the State failed to prove the trucks in its driveway were engaged in quarrying activity.

The Law Division judge recounted the testimony and found both witnesses credible. He rejected defendant's reading of § 26.9-1, finding the first two sentences had "to be read in conjunction" because "the meaning[s] of both sentences are not in contradiction of each other." Further, "[t]he intent of the chapter dealing with quarries is to license and regulate them for . . . the preservation of public health, safety[,] and welfare of the inhabitants of . . . Ringwood. . . . The burden of compliance is upon . . . defendant who is being licensed and regulated."

The judge rejected defendant's argument the borough acquiesced to the presence of trucks in the driveway by approving the location of the quarry gate inside the driveway and away from the roadway for safety reasons. He concluded "the present location of the gate does not negate the requirement of

[s]ection 26-9.1 that motor vehicles not enter the quarry property . . . except during designated times." Further, defendant's assertion the driveway did not comprise the quarry "lack[ed] merit" because "[t]he act of quarrying encompasses the trucks who use the entrance/exit roadway to obtain the material. The definition of quarry and quarry property . . . are not inconsistent with each other. . . . Both [witnesses] testified . . . the entrance/exit road leading . . . to the gate is property owned by [defendant]."

The judge likewise found defendant's argument the trucks on the roadway were not engaging in quarrying activities lacked merit because defendant's report proved the trucks entered, were loaded up, and then exited the property. Therefore, "[t]o argue . . . the trucks lined up at the gate were not there to obtain quarry material is not reasonable."

On appeal, defendant reprises the argument that the Law Division judge misinterpreted the ordinance by holding it responsible for the truckers' conduct. It repeats the claim the portion of the property outside the gate was not quarry property as defined by the ordinance. It asserts there was insufficient evidence to conclude defendant let trucks into the quarry before 7:00 a.m.

I.

Following a de novo appeal to the Law Division, conducted on the record developed in the municipal court, our standard of review is limited. State v. Clarksburg Inn, 375 N.J. Super. 624, 639 (App. Div. 2005); see also R. 3:23-8(a)(2). We consider only "the action of the Law Division and not that of the municipal court." State v. Palma, 219 N.J. 584, 591-92 (2014) (quoting State v. Joas, 34 N.J. 179, 184 (1961)).

The Law Division judge must make independent findings of fact and conclusions of law based on the evidentiary record of the municipal court, with deference to the municipal court judge's ability to assess the witnesses' credibility. State v. Johnson, 42 N.J. 146, 157 (1964). This is because the municipal court has the "opportunity to hear and see the witnesses and to have the 'feel' of the case, which a reviewing court cannot enjoy." State v. Elders, 192 N.J. 224, 244 (2007) (quoting Johnson, 42 N.J. at 161).

We focus our review on "whether there is 'sufficient credible evidence . . . in the record' to support the trial court's findings." State v. Robertson, 228 N.J. 138, 148 (2017) (alteration in original) (quoting Johnson, 42 N.J. at 162). However, our review of legal determinations is plenary. See State v. Kuropchak, 221 N.J. 368, 383 (2015).

Having considered the record pursuant to these principles, we affirm substantially for the reasons expressed by the Law Division judge. We add the following comments.

A.

"[We] utilize[] the established rules of statutory construction to interpret a municipal ordinance." Paff v. Byrnes, 385 N.J. Super. 574, 579 (App. Div. 2006) (citing Twp. of Pennsauken v. Schad, 160 N.J. 156, 170 (1999)). We strive to "effectuate the legislative intent in light of the language used and the objects sought to be achieved." Schad, 160 N.J. at 170 (quoting Merin v. Maglaki, 126 N.J. 430, 435 (1992)). This means we must first examine the language of the ordinance. Paff, 385 N.J. Super. at 579 (citing Schad, 160 N.J. at 170). If the language reveals a clear and unambiguous meaning, then that language controls. Ibid. (citing Schad, 160 N.J. at 170). If "a literal rendering will lead to a result not in accord with the essential purpose and design of the act, the spirit of the law will control the letter." In re Eligibility of Certain Assistant Union Cnty. Prosecutors to Transfer to PFRS, 301 N.J. Super. 551, 558 (App. Div. 1997) (quoting N.J. Builders, Owners & Managers Ass'n v. Blair, 60 N.J. 330, 338 (1972)).

Defendant's interpretation of the ordinance is inconsistent with its plain language and purpose. As the Law Division judge noted, the ordinance regulates defendant, not the trucking companies. The ordinance clearly places the onus on defendant to comply with its provisions. Therefore, defendant's reading of the first sentence of § 26-9.1 to apply to it, while the second sentence does not, is unpersuasive.

B.

"Circumstantial evidence can support a verdict against a defendant if it is sufficient to generate a belief of guilt beyond a reasonable doubt." State v. Papitsas, 80 N.J. Super. 420, 424 (App. Div. 1963) (citing State v. Bulna, 46 N.J. Super. 313, 318 (App. Div. 1957), aff'd, 27 N.J. 93 (1958)). "In considering circumstantial evidence, we follow an approach 'of logic and common sense. When each of the interconnected inferences [necessary to support a finding of guilt beyond a reasonable doubt] is reasonable on the evidence as a whole, judgment of acquittal is not warranted.'" State v. Jones, 242 N.J. 156, 168 (2020) (alteration in original) (quoting State v. Samuels, 189 N.J. 236, 246 (2007)).

We reject defendant's argument the State failed to prove trucks were let into the quarry before 7:00 a.m. The State's witness testified through photographs with timestamps showing trucks lining up defendant's driveway as

early as 6:46 a.m. and photographs showing there were no trucks on the driveway by 6:59 a.m., because they entered the quarry. This circumstantial evidence proved beyond a reasonable doubt defendant violated the ordinance. The evidence adduced through defendant's witness does not convince us otherwise. Indeed, defendant's report showed the first truck being weighed at 7:00 a.m., which further supports the logical inference defendant opened the gate, which defendant's witness noted was operated manually, before 7:00 a.m.

C.

Finally, defendant's argument its driveway is not quarry property lacks merit. The ordinance separately defines quarry and quarry property. The former term explains the act of quarrying, whereas the latter describes the property broadly as "all real property upon which a quarry is located." (emphasis added). Reading these terms in accordance with defendant's interpretation would mean the borough could only regulate where quarry materials are extracted. This would not only contradict the ordinance's provisions governing access to the property, which includes the driveway, but frustrate its goal of preserving public health and safety in regulating the entire property. We decline to follow such a narrow interpretation of the ordinance.

Affirmed.

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

CLERK OF THE APPELLATE DIVISION