

Gary Alan Mauz Exonerated Of Disorderly Conduct For Calling Neighbor A “Whore”

On June 23, 2015 a three-judge panel of the Pennsylvania Superior Court [overturned the disorderly conduct conviction](#) of Gary Alan Mauz for calling his neighbor a “whore,” and making other derogatory comments to her. The appeals court [noted that](#), “We find Appellant’s comments reprehensible but not criminal.”

At about 10 p.m. on April 24, 2013 Victoria Battistini was in the backyard of her home in Warrington, Pennsylvania when she saw from a street light that her neighbor Mauz was standing at the front door of his home. Battistini had a fenced backyard and Mauz’ house was diagonal from her house.

Battistini heard Mauz directing comments toward her that included, her “fat mom humps [her] dog,” and “whore.” The two were separated by Battistini’s backyard fence and they were not physically close to each other.

The next day Battistini called the police, reporting that Mauz’ comments made her feel “uncomfortable and scared.” The officer that responded cited Mauz for misdemeanor disorderly conduct on the basis he used obscene language towards Battistini,

and he had created a hazardous or physically offensive condition for her.

Mauz had a bench trial during which the prosecution’s only witnesses were Battistini and the investigating officer. Mauz was found guilty on June 20, 2014 of disorderly conduct for making a hazardous or physically offensive condition under 18 Pa.C.S.A. § 5503(a)(4). He was fined \$50 and ordered to pay court costs.

Mauz appealed, arguing the State introduced insufficient evidence to sustain his disorderly conduct conviction.

The Pennsylvania Superior Court’s [unanimous ruling](#) on September 9, 2015 acquitted Mauz of his disorderly conduct conviction. The Court’s ruling in *Commonwealth of Pennsylvania vs. Gary Alan Mauz*, 122 A.3d 1039, 2015 PA Super 191 (Superior Court of Pennsylvania, 6-23 2014) [states in part](#):

Appellant argues the Commonwealth produced insufficient evidence to sustain a conviction under § 5503(a)(4).

“The offense of disorderly conduct is not intended as a catchall for every act which annoys or disturbs people; it is not to be used as a dragnet for all the irritations which breed in the ferment of a community.” ... “It has a specific purpose; it has a definite objective, it is intended to preserve the **public peace**.”

Nichols cont. from page 9

inflict the injuries that resulted in Kaden’s death.

... the jury found that Jeremy was “wholly indifferent” and “reckless” for not seeking medical care, a verdict altogether unsupported by substantial evidence in the record. We cannot sustain any verdict on that basis.

We reverse Jeremy Nichols’ child abuse conviction under Section 30-6-1 and order that the charge be dismissed with prejudice.

Nichols cannot be retried since the supreme court found there was insufficient evidence and ordered dismissal of the charge.

After the court’s ruling Nichols’ attorney Raymond Maestas [issued a statement](#) to the press: “Jeremy Nichols is an innocent person, who was wrongfully accused by the Albuquerque Police Department, the Office of the Medical Investigator, and the District Attor-

ney’s Office in a rush to judgment fueled by emotion rather than actual evidence – the very agencies whose job it is to do a full and fair investigation. He is and always was a great father, and everyone the police interviewed during their investigation said so.”

After Nichols was charged his wife Alycia divorced him and remarried. Nichols and Alycia’s son Bryce is reported to be a healthy youngster.

[Click here to read](#) the New Mexico Supreme Court’s ruling in *State v. Nichols*, No. S-1-SC-34549 (NM Sup. Ct. 11-19-2015).

Source: [State v. Nichols](#), No. S-1-SC-34549 (NM Sup. Ct. 11-19-2015)

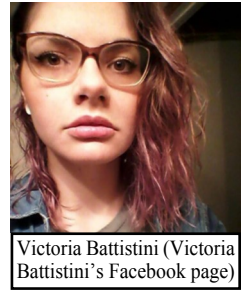
[After 9 years](#), dad is exonerated in death of twin son, Albuquerque Journal ((Albuquerque, NM) November 23, 2015

[Verdict Reached In Nichols Case](#), KOAT-TV (Albuquerque, NM), May 5, 2010

[Nichols Gets 18 Years in Child Abuse Case](#), Albuquerque Journal, July 14, 2010

[State v. Nichols](#), No. 30,783 (NM Ct. of Appeals, 12-20-2015)

We concluded the defendant’s action did not jeopardize “the public peace.” In making statements that were “briefly irritating”, the defendant did not commit disorderly conduct.



Victoria Battistini (Victoria Battistini’s Facebook page)

... we believe the evidence is insufficient to establish that Appellant acted with the intent to cause **public** annoyance, inconvenience or alarm.

Furthermore, we do not believe Appellant recklessly created a risk of a hazardous or physically offensive condition under § 5503(a)(4). ... Here, Appellant made a few brief, offensive remarks to Battistini and then retreated into his home. The two were separated by a fence, and the record fails to reflect that anyone else heard Appellant’s statements.

We also do not believe Appellant’s conduct created a physically offensive condition ... Appellant [] did not invade Battistini’s physical privacy, as the encounter occurred when she was present in her yard and visible to Appellant from his own yard.

For all of the foregoing reasons, we conclude the record ... does not contain sufficient evidence to support Appellant’s conviction under § 5503(a)(4). We therefore vacate the judgment of sentence. (Note: The words in bold are in the judge’s opinion)

Mauz’ retrial is barred by double jeopardy.

[Click here to read the ruling](#) exonerating Gary Mauz in *Commonwealth of Pennsylvania vs. Gary Alan Mauz*, 122 A.3d 1039, 2015 PA Super 191 (Superior Court of Penn., 6-23-2014).

Source:

[Commonwealth of Pennsylvania vs. Gary Alan Mauz](#), 122 A.3d 1039, 2015 PA Super 191 (Superior Court of Pennsylvania, 6-23-2014)

[Pennsylvania judge vacates disorderly conduct conviction](#) of man who called neighbor a ‘whore’, *New York Daily News*, June 24, 2015

Visit Justice Denied’s Facebook Page

Justice Denied’s Facebook page has information related to wrongful convictions. Justice Denied’s homepage has a link to the Facebook page, www.justicedenied.org