

**ADMINISTRATIVE OFFICE OF THE COURTS
STATE OF NEW JERSEY**

PHILIP S. CARCHMAN, J.A.D.
ACTING ADMINISTRATIVE DIRECTOR
OF THE COURTS



**RICHARD J. HUGHES JUSTICE COMPLEX
PO Box 037
TRENTON, NEW JERSEY 08625-0037**

[Questions or comments may be
directed to 609-292-4638.]

Directive # 7-07

**TO: Assignment Judges
Criminal Division Judges**

FROM: Philip S. Carchman

**SUBJ: Post-Conviction Applications on Indictable Offenses – New
Form Order**

DATE: September 20, 2007

This Directive promulgates the attached Order on Post-Conviction Applications on Indictable Offenses for statewide use.

Rules 2:5-3(d) and 3:22-6(c) provide for the transcription of proceedings below either without charge or at the expense of the county or the municipality in appeals involving *pro se* indigent defendants. In an effort to reduce the public expense of the transcription of oral opinions on the denial of second or subsequent petitions for post-conviction relief and other post-conviction applications where there is no right to counsel, the Supreme Court Criminal Practice Committee developed this uniform order, which has been endorsed by the Conference of Criminal Presiding Judges. It also was reviewed at the most recent Assignment Judge/Appellate Division Judge Meeting.

The order is to be used when the court either grants or denies post-conviction applications. The order consolidates various items of information important for review of motions for declaration of indigency, assignment of counsel and ordering transcripts. The order specifically addresses whether the defendant is indigent, whether the defendant had counsel at the hearing, if it was the first or subsequent petition for post-conviction relief or post-conviction application, whether the matter was decided on papers, or if there was a proceeding for which a transcript is needed.

In addition to completing the order, judges are asked to provide written reasons when a *pro se* litigant files a second or subsequent petition for post-

conviction relief and the relief sought is denied. The written reasons for such denial can be included within or attached to the court's order denying relief. In the event that there is an appeal from the order denying relief, the inclusion of documented reasons for the denial will save the public the cost of ordering transcripts to determine the trial court's reasons for its decision.

Any questions or comments regarding the form order promulgated by this directive may be directed to Assistant Director Joseph Barraco, Criminal Practice Division, at 609-292-4638.

P.S.C.

Attachment (form order)

cc: Chief Justice Stuart J. Rabner
Hon. Edwin H. Stern, Chair, Criminal Practice Committee
Attorney General Anne M. Milgram
First Assistant Attorney General John Vazquez
Public Defender Yvonne Smith Segars
Gregory Paw, Director, Division of Criminal Justice
County Prosecutors
Regional Deputy Public Defenders
AOC Directors and Assistant Directors
Trial Court Administrators
John Wieck, Chief, Criminal Practice Division
Criminal Division Managers
Vance D. Hagins, Criminal Practice Division
Melaney S. Payne, Criminal Practice Division
Steven D. Bonville, Special Assistant
Francis W. Hoeber, Special Assistant

v.

INDICTMENT #: _____

CASE OR PROMIS #: _____

Defendant

**ORDER ON POST-CONVICTION APPLICATIONS
ON INDICTABLE OFFENSES**

This matter being opened on the application of defendant, _____, by:

Petition for Post-Conviction Relief determined to be defendant's

_____ first petition

_____ second or subsequent petition

Motion for Change or Reduction of Sentence pursuant to *Rule 3:21-10*

Motion for _____ and the defendant having been represented by:

_____, Assistant Deputy Public Defender

_____, Retained or Designated Counsel (*circle one*) or

The court having concluded that there was no good cause entitling the assignment of counsel on the application, and the State having been represented by:

_____ Assistant Prosecutor; and

There having been proceedings conducted on the record on _____, 200____ or

The matter having been disposed of on the papers;

It is on this _____ day of _____, 200____ ORDERED THAT DEFENDANT'S APPLICATION IS HEREBY:

_____ Granted

_____ Denied

_____ Other

For the reasons:

Expressed in the court's written opinion of _____

Expressed orally on the record on _____

_____, J.S.C.

ORIGINAL: Office of the Public Defender
c: Judge _____
Criminal Division Manager's Office
Prosecutor's Office
Defendant