

## **RULE 2:7. Appeals By Indigent Persons**

### **2:7-1. Relief From Filing Fees; Deposit for Costs**

Except as otherwise provided by R. 2:7-4, a person who, by reason of poverty, seeks relief from the payment of appellate filing fees and the deposit for costs may without fee file with the trial court a verified petition setting forth the facts relied upon, and the court, if satisfied of the facts of indigency, shall enter an order waiving such payment and deposit and shall forthwith transmit a copy thereof to the clerk of the appellate court to which the appeal is taken. If the appeal is taken from the action of a State administrative agency or officer, the verified petition shall be filed directly with the Appellate Division. If a person is, however, represented as an indigent by any person, society or project enumerated in R. 1:13-2, all filing fees and deposits shall be waived by the appropriate clerk or clerks without the necessity of court order. The appeal is timely if the date of the filing of the petition is within the period provided by R. 2:4-1. If the trial court denies the application, it shall briefly state its reasons therefor, and the petition may be renewed within 20 days thereafter before the appellate court in accordance with R. 2:7-3.

Note: Source-R.R. 1:2-7(a) (first and fourth sentences); amended July 24, 1978 to be effective September 11, 1978; amended July 13, 1994 to be effective September 1, 1994.

### **2:7-2. Assignment of Counsel on Appeal**

- **(a) Indictable Offenses.** All persons convicted of an indictable offense who are not represented by the Office of the Public Defender and who desire to appeal, and who assert they are indigent, shall complete and file, without fee, with the court in which they were convicted, the appropriate form prescribed by the Administrative Director of the Courts, which shall be made available to them by the court in which they were convicted. They shall thereupon be referred to the Office of the Public Defender, which shall represent them on such appeal or review and on such subsequent post-conviction proceedings or appeal therein as would warrant the assignment of counsel.
- **(b) Non-indictable Offenses.** All persons convicted of a non-indictable offense who desire to appeal their conviction and who assert they are indigent, shall complete and file, without fee, with the trial court, the appropriate form prescribed by the Administrative Director of the Courts, which shall be made available to them by the court in which they were convicted. If the court is satisfied that they are indigent, it shall assign counsel to represent them on the appeal (i) if the sentence imposed constitutes a consequence of magnitude as set forth in the "Guidelines for Determining a Consequence of Magnitude" in Appendix 2 to Part VII of the Rules of Court, or (ii) if the persons are constitutionally or otherwise entitled by law to counsel. If the sentence imposed does not constitute a consequence of magnitude, the court hearing the appeal may, in its discretion, determine whether to assign counsel for purposes of the appeal, irrespective of whether counsel was previously assigned in the case.
- **(c) Review of Status as Prisoner.** All persons seeking review of administrative proceedings concerning their status as prisoners and who assert they are indigent and are not represented by counsel shall file without fee with the Clerk of the Appellate Division a notice of appeal and a verified petition as required by R. 2:7-1. If they also request appointment of counsel, their verified petition shall include a detailed statement of the grounds upon which such request is made, including a statement of the facts and the issues giving rise to the appeal. If the Court is satisfied that they are indigent and constitutionally or otherwise entitled by law to counsel, it shall, as appropriate, either refer the matter to the Office of the Public Defender or assign other counsel to represent them on the appeal.
- **(d) Responsibility of Counsel Assigned by the Trial Court For Non-Indictable Offenses.** Assigned counsel representing a defendant in a non-indictable prosecution shall file an appeal for a defendant who elects to exercise his or her right to appeal. An

attorney filing a notice of appeal shall be deemed the attorney of record for the appeal unless the attorney files with the notice of appeal an application for the assignment of counsel on appeal.

**Note:** R.R. 1:2-7(b), 1:12-9(b) (d). Paragraph (c) adopted November 1, 1985 to be effective January 2, 1986; paragraph (a) amended, paragraph (b) caption and text amended, paragraph (c) adopted and former paragraph (c) redesignated paragraph (d) November 5, 1986 to be effective January 1, 1987; paragraphs (b) and (d) amended July 10, 1998 to be effective September 1, 1998; paragraphs (b) and (d) amended July 12, 2002 to be effective September 3, 2002; paragraph (d) amended June 15, 2007 to be effective September 1, 2007; paragraph (d) caption and text amended July 16, 2009 to be effective September 1, 2009; paragraph (b) amended July 22, 2014 to be effective September 1, 2014.

### **2:7-3. Joinder of Petitions; Copies Required**

Requests for relief pursuant to R. 2:7-1 and 2:7-2 may be joined in a single petition. On renewal of the application in the Supreme Court an original and 8 copies and in the Appellate Division an original and 4 copies of petitions and accompanying statements shall be filed.

**Note:** Source-R.R. 1:2-7(a) (second sentence).

### **2:7-4. Relief in Subsequent Courts**

Except as provided in R. 2:7-2(b), with respect to the assignment of counsel, a person who has been granted relief as an indigent by any court shall be granted relief as an indigent in all subsequent proceedings resulting from the same indictment, accusation or criminal or civil complaint in any court without making application therefor upon filing with the court in the subsequent proceeding a copy of the order granting such relief or a sworn statement to the effect that such relief was previously granted and stating the court and proceeding in which it was granted. The filing of such order or statement shall be accompanied by an affidavit stating that there has been no substantial change in the petitioner's financial circumstances since the date of the entry of the order granting such relief. An indigent defendant appealing from a judgment of conviction by the Law Division entered on a trial de novo, who has been afforded or had a right to a transcript at public expense of municipal court proceedings pursuant to [R. 3:23-8\(a\)](#), shall be entitled to a transcript of the Law Division proceedings paid for in the same manner as the municipal court transcript.

**Note:** Amended July 13, 1994 to be effective September 1, 1994; amended July 28, 2004 to be effective September 1, 2004; amended July 22, 2014 to be effective September 1, 2014.