

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

GLENN A. GRANT, J.A.D.
ACTING ADMINISTRATIVE
DIRECTOR OF THE COURTS



RICHARD J. HUGHES
JUSTICE COMPLEX
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TRENTON, NEW JERSEY 08625-0037

Directive # 01- 09

**To: Assignment Judges
Family Presiding Judges**

[Questions or comments may be
directed to: (609) 984-4228.]

From: Glenn A. Grant, J.A.D.

**Subj: Family - Juvenile Delinquency and Domestic Violence
Appeal Rights Forms and Colloquies**

Date: April 13, 2009

This Directive promulgates for immediate use an appeal rights form and colloquy for domestic violence contempts and juvenile delinquency dispositions. In State v. Molina, 187 N.J. 531 (2006), the Supreme Court sets forth the requirement for the "Appeal Rights Form" to inform adult criminal defendants of their right to appeal. Subsequently, the Supreme Court concluded that these same due process rights should be afforded to those individuals who are the subject of domestic violence contempt matters and juvenile delinquency dispositions.

In Molina, the Court held that a defendant's right to appeal must be communicated to defendant in writing and in a manner that ensures a meaningful discussion with counsel. 187 N.J. at 543. Therefore, "before imposing sentence, trial courts are to provide defendants with a form, to be generated and executed in duplicate." Id. Further, "[t]he trial court, as part of the sentencing colloquy, is to review the appeal rights form with the defendant, satisfy itself that the defendant understands his or her appeal rights and has executed the appeal rights form knowingly and intelligently, and place that conclusion on the record." Id. at 544.

Juvenile Delinquency

N.J.S.A. 2A:4A-40 states that "[a]ll rights guaranteed to criminal defendants by the Constitution of the United States and the Constitution of this State, except the right to indictment, the right to trial by jury and the right to bail, shall be applicable to cases arising under [the New Jersey Code of Juvenile Justice]." The right to appeal is one of those guaranteed rights. Pursuant to this provision, an adjudicated juvenile delinquent thus is entitled to receive an "Appeal Rights Form." Therefore, before imposing disposition of an indictable offense, the court will provide a form to the juvenile, to be generated and executed in duplicate. The court, as part of the disposition colloquy, will review the appeal rights form with the juvenile. The court will satisfy itself that the juvenile understands his or her appeal rights and has executed the appeal rights form knowingly and intelligently. The court will place that conclusion on the record.

Domestic Violence Contempt

The Family Part of Superior Court has the authority to hear domestic violence (DV) contempt matters that are indictable offenses when such matters are transferred from either the Law Division or a municipal court. See R. 3:1-5 and R. 5:1-2(c)(3). In the event that an indictable offense is transferred to the Family Part and a defendant is subsequently convicted there, N.J.S.A. 2C: 29-9 applies and therefore the use of the appeal rights form is appropriate pursuant to Molina.

Rule 3:1-1 provides that Part III of the Rules of Court applies to only indictable domestic violence (DV) offenses where there is no related Family Part rule. N.J.S.A. 2C:29-9 states that purposeful or knowing violation of a DV restraining order entered pursuant to the Prevention of Domestic Violence Act is a fourth degree crime. N.J.S.A. 2C:25-30 directs that “[a]ll contempt proceedings conducted pursuant to N.J.S.A. 2C:29-9 involving domestic violence orders, other than those constituting indictable offenses, shall be heard by the Family Part of the Chancery Division of the Superior Court.”

The Family Part normally hears violations of DV orders that are classified as disorderly persons offenses. See DV Procedures Manual, at Section 6.4.4 (D). Pursuant to N.J.S.A. 2C:43-8, individuals convicted of disorderly persons offenses are subject to incarceration for up to six months. In those cases where the Family Part hears DV contempt matters classified as disorderly persons offenses, threat of incarceration dictates that an appeal rights form should be provided to the defendant convicted of DV contempt.

Attachments:

1. Appeal Rights Form - Juvenile-English
2. Appeal Rights Form - Juvenile-Spanish
3. Colloquy – Juvenile-English
4. Colloquy – Juvenile-Spanish
5. Appeal Rights Form - Domestic Violence-English
6. Appeal Rights Form - Domestic Violence-Spanish
7. Colloquy - Domestic Violence-English
8. Colloquy – Domestic Violence-Spanish

c: Chief Justice Stuart Rabner
Attorney General Anne Milgram
Public Defender Yvonne Smith Segars
Hon. Eugene D. Serpentelli (retired), Chair, Family Practice Committee
Deborah Gramiccioni, Director, Division of Criminal Justice
County Prosecutors
Regional Deputy Public Defenders
AOC Directors and Assistant Directors
Trial Court Administrators
Family Division Managers
Joanne M. Dietrich, Chief, Family Practice Division
Geraldine Washington, Chief, Family Practice Division
Janis Alloway, Asst. Chief, Family Practice Division
David Tang, Family Practice Division
Gina Bellucci, Family Practice Division
Steven D. Bonville, Special Assistant
Francis W. Hoeber, Special Assistant

STATE IN THE INTEREST OF

Civil Action

Juvenile

(Complete in duplicate: one fully executed copy to be delivered to the trial judge and juvenile to retain the remaining copy.)

I, _____, hereby certify as follows:

1. I am the juvenile in the case referred to above.
2. I am being represented in this disposition by _____ and he/she has reviewed this Appeal Rights Form with me.
3. I understand that: (a) an appeal means having my case reviewed by a higher court, (b) I have the right to appeal my adjudication, (c) I have the right to be represented by counsel for that appeal, (d) if I am unable to secure counsel for my appeal, the Office of the Public Defender will represent me or arrange for my representation, and (e) If I fail to file a notice of appeal with the Appellate Division within 45 days of today's date, and unless I obtain a thirty-day extension of time on a showing of good cause and absence of prejudice, I will lose my right to appeal.
4. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

DATED: _____

Juvenile

I have reviewed this Appeal Rights Form with the juvenile and I am satisfied that the he/she understands the rights it describes.

DATED: _____

Counsel for Juvenile

EL ESTADO EN BENEFICIO DE:
STATE IN THE INTEREST OF:

TRIBUNAL SUPERIOR DE NUEVA JERSEY
SUPERIOR COURT OF NEW JERSEY
DIVISIÓN DE EQUIDAD – PARTE DE FAMILIAS
CHANCERY DIVISION - FAMILY PART
CONDADO DE _____
COUNTY OF _____
NO. DEL EXPEDIENTE FJ - _____
DOCKET NO. _____

Menor
Juvenile

**ACCIÓN CIVIL
CIVIL ACTION**

(Llénelo por duplicado; una copia debidamente firmada se ha de entregar al juez del juicio, y el menor ha de quedarse con la otra copia).

(Complete in duplicate: one fully executed copy to be delivered to the trial judge and juvenile to retain the remaining copy.)

Yo, _____, por la presente certifico lo siguiente:
I, _____, hereby certify as follows:

1. Soy el menor en la causa citada arriba.
I am the juvenile in the case referred to above.
2. _____ me está representando en esta disposición, y él/ella ha revisado conmigo este Formulario sobre los Derechos de Apelación.
I am being represented in this disposition by _____ and he/she has reviewed this Appeal Rights Form with me.
3. Entiendo que: (a) una apelación significa hacer que un tribunal más alto revise mi causa, (b) tengo el derecho de apelar el fallo referente a mí, (c) tengo el derecho de que me represente un abogado en dicha apelación, (d) si no puedo conseguir un abogado para mi apelación, la Oficina del Abogado de Oficio me representará o hará arreglos para la representación, y (e) si no presento un aviso de apelación ante la División de Apelaciones dentro de los 45 días subsiguientes a la fecha de hoy, y a menos que obtenga una prórroga de treinta días al demostrar motivo suficiente y la ausencia de perjuicio, perderé mi derecho de apelar.
I understand that: (a) An appeal means having my case reviewed by a higher court, (b) I have the right to appeal my adjudication, (c) I have the right to be represented by counsel for that appeal, (d) if I am unable to secure counsel for my appeal, the Office of the Public Defender will represent me or arrange for my representation, and (e) If I fail to file a notice of appeal with the Appellate Division within 45 days of today's date, and unless I obtain a thirty-day extension of time on a showing of good cause and absence of prejudice, I will lose my right to appeal.
4. Certifico que las declaraciones que anteceden hechas por mí son veraces. Sé que si cualquiera de las declaraciones que anteceden hechas por mí es intencionalmente falsa, estaré sujeto a un castigo.
I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

FECHADO/ Dated: _____

Menor / Juvenile

He revisado este Formulario sobre los Derechos de Apelación con el menor y estoy satisfecho de que el menor entiende los derechos que se describen.

I have reviewed this Appeal Rights Form with the juvenile and I am satisfied that he/she understands the rights it describes.

FECHADO/ Dated: _____

Abogado del menor / Counsel for Juvenile

APPEAL RIGHTS COLLOQUY - JUVENILE

You have 45 days from today to appeal your adjudication and disposition.

If you are eligible for Public Defender representation for your appeal, the Office of the Public Defender will represent you or arrange for your representation.

If you miss the 45 day deadline you can ask for a 30 day extension to file your appeal if you can show a good reason for missing the deadline.

If you miss the extended deadline you may lose your right to appeal.

Do you have any questions about your right to appeal?

Did you discuss the Appeal Rights Form with your attorney?

Did you sign the Appeal Rights Form?

Based on what you have said, I am satisfied that you have knowingly and intelligently executed the Appeal Rights Form and clearly understand your appeal rights.

NOTE:

Questions for parent or guardian if he or she is in court:

Were you present when the right to appeal was explained to your child?

Have you signed the Appeal Rights Form?

COLOQUIO SOBRE LOS DERECHOS DE APELACIÓN – MENOR
APPEAL RIGHTS COLLOQUY - JUVENILE

Usted tiene 45 días a partir de hoy para apelar el fallo referente a usted y la disposición.

You have 45 days from today to appeal your adjudication and disposition.

Si usted reúne las condiciones necesarias para que lo represente un abogado de oficio en su apelación, la Oficina del Abogado de Oficio lo representará o hará arreglos para su representación.

If you are eligible for Public Defender representation for your appeal, the Office of the Public Defender will represent you or arrange for your representation.

Si usted no cumple con el plazo de 45 días, puede pedir una extensión de 30 días para presentar su apelación si puede indicar una buena razón para no haber cumplido con el plazo.

If you miss the 45 day deadline you can ask for a 30 day extension to file your appeal if you can show a good reason for missing the deadline.

Si usted no cumple con el plazo extendido, puede perder su derecho de apelar.

If you miss the extended deadline you may lose your right to appeal.

¿Tiene alguna pregunta sobre su derecho de apelación?

Do you have any questions about your right to appeal?

¿Habló con su abogado acerca del Formulario sobre los Derechos de Apelación?

Did you discuss the Appeal Rights Form with your attorney?

¿Firmó el Formulario sobre los Derechos de Apelación?

Did you sign the Appeal Rights Form?

Basándome en lo que usted me ha dicho, estoy satisfecho de que usted ha firmado el Formulario sobre los Derechos de Apelación a sabiendas y con conocimiento del asunto y que claramente entiende sus derechos de apelación.

Based on what you have said, I am satisfied that you have knowingly and intelligently executed the Appeal Rights Form and clearly understand your appeal rights.

NOTA:

NOTE:

Preguntas para el padre, la madre o el tutor si se encuentra en la sala del tribunal:

Questions for parent or guardian if he or she is in court:

¿Estaba usted presente cuando le explicaron a su menor el derecho de apelar?

Were you present when the right to appeal was explained to your child?

¿Firmó usted el Formulario sobre los Derechos de Apelación?

Have you signed the Appeal Rights Form?

STATE OF NEW JERSEY

v.

**CIVIL ACTION
Appeal Rights Form**

Defendant

(Complete in duplicate: one fully executed copy to be delivered to the trial judge and defendant to retain the remaining copy.)

I, _____, hereby certify as follows:

1. I am the defendant in the above referenced case.
2. I am being represented in this sentencing by _____ and he/she has reviewed this Appeal Rights Form with me.
3. I understand that: (a) an appeal means having my case reviewed by a higher court, (b) I have a right to appeal my conviction and sentence, (c) I have the right to be represented by counsel for that appeal, (d) if I am unable to secure counsel for my appeal, I may apply to the court for appointed counsel, and (e) If I fail to file a notice of appeal with the Appellate Division within 45 days of today's date, and unless I obtain a thirty-day extension of time on a showing of good cause and absence of prejudice, I will lose my right to appeal.
4. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

DATED: _____

Defendant

I have reviewed this Appeal Rights Form with defendant and I am satisfied that he/she has been fully advised of the rights it describes.

DATED: _____

Counsel for Defendant

TRIBUNAL SUPERIOR DE NUEVA JERSEY
SUPERIOR COURT OF NEW JERSEY
DIVISIÓN DE EQUIDAD – PARTE DE FAMILIAS
CHANCERY DIVISION - FAMILY PART

CONDADO DE _____
COUNTY OF _____

ESTADO DE NUEVA JERSEY
STATE OF NEW JERSEY

NO. DEL EXPEDIENTE FO- _____
DOCKET NO. _____

contra
v.

**ACCIÓN CIVIL
CIVIL ACTION**

Acusado
Defendant

**Formulario sobre
los Derechos de Apelación
Appeal Rights Form**

(Llénelo por duplicado; una copia debidamente firmada se ha de entregar al juez del juicio, y el acusado ha de quedarse con la otra copia).

(Complete in duplicate: one fully executed copy to be delivered to the trial judge and defendant to retain the remaining copy.)

Yo, _____, por la presente certifico lo siguiente:
I, _____, hereby certify as follows:

1. Soy el acusado en la causa citada arriba.
I am the defendant in the above referenced case.
2. _____ me está representando en esta imposición de sentencia, y él/ella ha revisado conmigo este Formulario sobre los Derechos de Apelación.
I am being represented in this sentencing by _____ and he/she has reviewed this Appeal Rights Form with me.
3. Entiendo que: (a) una apelación significa hacer que un tribunal más alto revise mi causa, (b) tengo el derecho de apelar mi condena y sentencia, (c) tengo el derecho de que me represente un abogado en dicha apelación, (d) si no puedo contratar a un abogado para mi apelación, puedo solicitar que el juez me nombre un abogado, y (e) si no presento un aviso de apelación ante la División de Apelaciones dentro de los 45 días subsiguientes a la fecha de hoy, y a menos que obtenga una prórroga de treinta días al demostrar motivo suficiente y la ausencia de perjuicio, perderé mi derecho de apelar.
I understand that: (a) an appeal means having my case reviewed by a higher court, (b) I have a right to appeal my conviction and sentence, (c) I have the right to be represented by counsel for that appeal, (d) If I am unable to secure counsel for my appeal, I may apply to the court for appointed counsel, and (e) if I fail to file a notice of appeal with the Appellate Division within 45 days of today's date, and unless I obtain a thirty-day extension of time on a showing of good cause and absence of prejudice, I will lose my right to appeal.
4. Certifico que las declaraciones que anteceden hechas por mí son veraces. Sé que si cualquiera de las declaraciones que anteceden hechas por mí es intencionalmente falsa, estaré sujeto a un castigo.
I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

FECHADO/ DATED: _____

Acusado / Defendant

He revisado este Formulario sobre los Derechos de Apelación con el acusado, y estoy satisfecho de que se le ha informado de los derechos que se describen.

I have reviewed this Appeal Rights Form with defendant and I am satisfied that he/she has been advised of the rights it describes.

FECHADO/ DATED: _____

Abogado del acusado / Counsel for Defendant

APPEAL RIGHTS COLLOQUY - DOMESTIC VIOLENCE

You have 45 days from today to appeal your conviction and sentence.

You have the right to appeal your conviction and sentence. You have the right to be represented by counsel for that appeal. If you are unable to secure counsel for your appeal, you may apply to the court for appointed counsel.

If you miss the 45 day deadline you can ask for a 30 day extension to file your appeal if you can show a good reason for missing the deadline.

If you miss the extended deadline you may lose your right to appeal.

Do you have any questions about your right to appeal?

Did you discuss the Appeal Rights Form with your attorney?

Did you sign the Appeal Rights Form? (Refusal to sign the form - Court staff will note this on the form.)

Based on what you have said, I am satisfied that you have knowingly and intelligently executed the Appeal Rights Form and clearly understand your appeal rights.

COLOQUIO SOBRE LOS DERECHOS DE APELACIÓN – VIOLENCIA DOMÉSTICA
APPEAL RIGHTS COLLOQUY – DOMESTIC VIOLENCE

Usted tiene 45 días a partir de hoy para apelar su condena y sentencia.

You have 45 days from today to appeal your conviction and sentence.

Usted tiene el derecho de apelar su condena y sentencia. Tiene el derecho de que lo represente un abogado en dicha apelación. Si no puede contratar a un abogado para su apelación, puede solicitar que el juez le nombre un abogado.

You have the right to appeal your conviction and sentence. You have the right to be represented by counsel for that appeal. If you are unable to secure counsel for your appeal, you may apply to the court for appointed counsel.

Si usted no cumple con el plazo de 45 días, puede pedir una extensión de 30 días para presentar su apelación si puede indicar una buena razón para no haber cumplido con el plazo.

If you miss the 45 day deadline you can ask for a 30 day extension to file your appeal if you can show a good reason for missing the deadline.

Si usted no cumple con el plazo extendido, puede perder su derecho de apelar.

If you miss the extended deadline you may lose your right to appeal.

¿Tiene alguna pregunta sobre su derecho de apelación?

Do you have any questions about your right to appeal?

¿Habló con su abogado acerca del Formulario sobre los Derechos de Apelación?

Did you discuss the Appeal Rights Form with your attorney?

¿Firmó el Formulario sobre los Derechos de Apelación? (Se niega a firmar el formulario – el personal del tribunal anotará esto en el formulario.)

Did you sign the Appeal Rights Form? (Refusal to sign the form - Court staff will note this on the form.)

Basándome en lo que usted me ha dicho, estoy satisfecho de que usted ha firmado el Formulario sobre los Derechos de Apelación a sabiendas y con conocimiento del asunto y que entiende claramente sus derechos de apelación.

Based on what you have said, I am satisfied that you have knowingly and intelligently executed the Appeal Rights Form and clearly understand your appeal rights.