

**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
PO Box 037
TRENTON, NEW JERSEY 08625-0037

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

DIRECTIVE # 03-10

[Supersedes Directive # 20-06]

**TO: ASSIGNMENT JUDGES
 CRIMINAL DIVISION JUDGES**

FROM: GLENN A. GRANT

A handwritten signature in dark ink, appearing to read "G.A.G.", is written over the printed name "GLENN A. GRANT".

**SUBJ: AMENDED FORM – NOTICE OF APPEAL RIGHTS AND TIME TO FILE A
 PETITION FOR POST-CONVICTION RELIEF AND COLLOQUY**

DATE: MARCH 9, 2010

Directive #20-06 (November 15, 2006) promulgated the Appeals Rights Form for use in criminal cases and the standard Appeals Rights colloquy to be used by the judge during sentencing to ensure that "defendant understands his or her appeal rights and has executed the appeal rights form knowingly and intelligently." State v. Molina, 187 N.J. 531, 544 (2006).

Effective September 1, 2009 and February 1, 2010, the Supreme Court adopted several revisions to the court rules governing post-conviction relief. As a part of this package of rule revisions, R. 3:21-4(h) was revised to require that after imposing the sentence, the court shall advise the defendant of the time limit to file a post-conviction relief petition, as set forth in R. 3:22-12. The Conference of Criminal Presiding Judges recommended revising the Appeal Rights form and colloquy to include notice to the defendant of the time frame to file petitions for post-conviction relief. Accordingly, the Appeals Rights form and colloquy have been re-titled and revised to include this notice for the filing of post-conviction relief applications.

Attached for use in criminal cases are: (1) Notice of Appeal Rights and Time to File a Petition for Post Conviction Relief, English-language version; (2) Notice of Appeal Rights and Time to File a Petition for Post Conviction Relief, Spanish-language version; (3) Notice of Appeal Rights and Time to File a Petition for Post Conviction Relief Colloquy. Any questions or comments regarding the form may be directed to Assistant Director Joseph Barraco at 609-292-4638.

G.A.G.

Attachments: (1) Notice of Appeal Rights and Time to File a Petition for Post Conviction Relief, English-language version;
(2) Notice of Appeal Rights and Time to File a Petition for Post Conviction Relief, Spanish-language version;
(3) Notice of Appeal Rights and Time to File a Petition for Post Conviction Relief Colloquy.

Cc: Chief Justice Stuart Rabner
Attorney General Paula Dow
Public Defender Yvonne Smith Segars
Steven J. Taylor, 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 Payne, Criminal Practice Division
Steven D. Bonville, Special Assistant
Francis W. Hoeber, Special Assistant

ATTACHMENT 1

**NOTICE OF APPEAL RIGHTS AND TIME TO FILE A
PETITION FOR POST-CONVICTION RELIEF**

(ENGLISH-LANGUAGE VERSION)

STATE OF NEW JERSEY

- v. -

**NOTICE OF APPEAL RIGHTS
AND TIME TO FILE A PETITION
FOR POST-CONVICTION RELIEF**

Defendant

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 Form with me.
3. **Appeal Rights.** I understand that:
 - (a) An appeal means having my case reviewed by a higher court,
 - (b) I have a right to appeal my conviction(s) and sentence(s),
 - (c) I have the right to be represented by counsel for that appeal,
 - (d) If I am unable to hire private 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. **Time Limits To File a Petition for Post-Conviction Relief.** I understand that I have **5 years** from today's date to file a petition for post-conviction relief, unless an exception to this general rule applies, as set forth in R. 3:22-12.
5. I am appearing before Judge _____, for sentencing today.

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

DATED: _____

Counsel for Defendant

(To Be Filled Out By Private Counsel Only)

If defendant decides to appeal and cannot afford to continue to retain private counsel, I will notify the Office of the Public Defender within 45 days of today's date.

DATED: _____

Counsel for Defendant

For information on appellate representation by the Office of the Public Defender, please write to:

Office of the Public Defender
Appellate Section
31 Clinton Street, 9th Floor
P.O. Box 46003
Newark, NJ 07101

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

ATTACHMENT 2

**NOTICE OF APPEAL RIGHTS AND TIME TO FILE A
PETITION FOR POST-CONVICTION RELIEF**

(SPANISH-LANGUAGE VERSION)

TRIBUNAL SUPERIOR DE NUEVA JERSEY
SUPERIOR COURT OF NEW JERSEY
DIVISIÓN DE DERECHO – CONDADO DE _____
LAW DIVISION - _____ COUNTY
NO. DE LA ACUSACIÓN FORMAL _____
INDICTMENT NO. _____

ESTADO DE NUEVA JERSEY
STATE OF NEW JERSEY

contra
v.

**NOTIFICACIÓN DE LOS DERECHOS DE APELACIÓN
Y DEL PLAZO PARA PRESENTAR UNA SOLICITUD
DE ASISTENCIA DESPUÉS DE LA CONDENA**

**NOTICE OF APPEAL RIGHTS
AND TIME TO FILE A PETITION
FOR POST-CONVICTION RELIEF**

Acusado
Defendant

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 sentencia y él/ella ha revisado este
Formulario conmigo.
I am being represented in this sentencing by _____ and he/she has reviewed this Form with me.
3. **Derechos de apelación:** Entiendo que
Appeal Rights. I understand that:
 - (a) una apelación significa hacer que un tribunal más alto revise mi causa,
(a) An appeal means having my case reviewed by a higher court,
 - (b) tengo el derecho de apelar mi(s) condena(s) y sentencia(s),
(b) I have a right to appeal my conviction(s) and sentence(s),
 - (c) tengo el derecho de que me represente un abogado en dicha apelación,
(c) I have the right to be represented by counsel for that appeal,
 - (d) si no puedo contratar a un abogado privado para mi apelación, la Oficina del Abogado de Oficio me
representará o hará arreglos para mi representación, y
(d) If I am unable to hire private counsel for my appeal, the Office of the Public Defender will represent me or arrange for my
representation, and
 - (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 a apelar.
(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. **Plazos para presentar una solicitud de asistencia después de la condena.** Entiendo que tengo **5 años** a
partir de la fecha de hoy para presentar una solicitud de asistencia después de la condena a menos que
corresponda una excepción a esta regla general, según se expone en *R. 3:22-12*,
Time Limits To File a Petition for Post-Conviction Relief. I understand that I have **5 years** from today's date to file a petition for
post-conviction relief, unless an exception to this general rule applies, as set forth in *R. 3:22-12*.
5. Comparezco hoy ante el juez _____ para la imposición de la sentencia.
I am appearing before Judge _____ for sentencing today.

**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 con el acusado y estoy satisfecho de que se le ha informado debidamente de los derechos que describe.

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

FECHADO/ Dated: _____

Abogado del acusado / Counsel for Defendant

(Para ser llenado solamente por un abogado privado)
(To Be Filled Out By Private Counsel Only)

Si el acusado decide apelar y no puede seguir pagando a un abogado privado, notificaré a la Oficina del Abogado de Oficio dentro de los 45 días subsiguientes a la fecha de hoy.

If defendant decides to appeal and cannot afford to continue to retain private counsel, I will notify the Office of the Public Defender within 45 days of today's date.

FECHADO/ Dated: _____

Abogado del acusado / Counsel for Defendant

Para información sobre la representación en apelaciones por la Oficina del Abogado de Oficio, escriba a:
For information on appellate representation by the Office of the Public Defender, please write to:

**Office of the Public Defender
Appellate Section
31 Clinton Street, 9th Floor
P.O. Box 46003
Newark, NJ 07101**

(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 one to be given to the defendant.)

ATTACHMENT 3

**NOTICE OF APPEAL RIGHTS AND TIME TO FILE A
PETITION FOR POST-CONVICTION RELIEF
COLLOQUY**

(ENGLISH-LANGUAGE VERSION)

NOTICE OF APPEAL RIGHTS AND TIME TO FILE A PETITION FOR POST-CONVICTION RELIEF COLLOQUY

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

If you cannot afford counsel the Public Defender's Office will continue to represent you.

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?

You have 5 years from today's date to file a petition for post-conviction relief, unless an exception to this general rule applies as set forth in *R. 3:22-12*.

Did you discuss the Notice of Appeal Rights and Time to File a Petition for Post-Conviction Relief Appeal Rights with your attorney?

Did you sign the Notice of Appeal Rights and Time to File a Petition for Post-Conviction Relief?

Based on what you have said, I am satisfied that you have knowingly and intelligently executed the Notice of Appeal Rights and Time to File a Petition for Post-Conviction Relief and clearly understand your appeal rights and time to file a post conviction relief application.