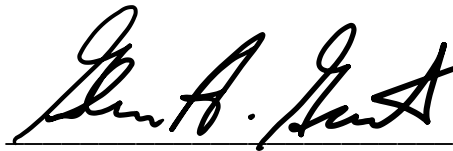


NOTICE TO THE BAR

ADOPTION OF NEW COURT RULE 4:74-7B – DISCOVERY IN SEXUALLY VIOLENT PREDATOR ACT (SVPA) COMMITMENT MATTERS

The Supreme Court in In the Matter of the Civil Commitment of P.D., A-94-18, decided August 11, 2020, announced a new rule to address pre-hearing discovery in cases involving commitment under the Sexually Violent Predator Act (SVPA), N.J.S.A. 30:4-27.24 to -27.38. Slip opinion at 24-26. The Court indicated that the new rule would be effective for SVPA proceedings thirty days after the date of the decision. Slip opinion at 24.

Based on a motion for clarification, the Court has adopted a minor revision to the text of the new rule to ensure that the rule is interpreted consistently with the statute. This notice is to advise of that revision and to formally promulgate the new rule, Rule 4:74-7B (“Discovery by a Person Subject to Involuntary Commitment Pursuant to the Sexually Violent Predator Act”). New Rule 4:74-7B is appended to this notice, as is the Court’s September 9, 2020 adopting order. Rule 4:74-7B becomes effective September 10, 2020.

A handwritten signature in black ink, appearing to read "Glenn A. Grant", is written over a horizontal line.

Glenn A. Grant, J.A.D.
Acting Administrative Director
of the Courts

Dated: September 9, 2020

SUPREME COURT OF NEW JERSEY

It is ORDERED that attached new Rule 4:74-7B of the Rules Governing the Courts of the State of New Jersey is adopted to be effective September 10, 2020.

For the Court,

A handwritten signature in blue ink, appearing to read "S. R. G. S.", is written over the printed name of the Chief Justice.

Chief Justice

Dated: September 9, 2020

4:74-7B. Discovery by a Person Subject to Involuntary Commitment Pursuant to the Sexually Violent Predator Act

(a) Any rule, regulation, or policy of confidentiality notwithstanding, a person subject to involuntary commitment pursuant to the New Jersey Sexually Violent Predator Act, N.J.S.A. 30:4-27.24 to -27.38, and the person's counsel, shall have the right to inspect and copy the following documents, no later than ten days before the court hearing with respect to the issue of continuing need for involuntary commitment as a sexually violent predator:

(1) all documents in the possession, custody, or control of the State relating to the person's criminal history;

(2) all documents in the possession, custody, or control of the State relating to the person's incarceration;

(3) all documents in the possession, custody, or control of the State relating to the person's treatment, if any;

(4) all documents in the possession, custody, or control of the State relating to the basis for the State's application for the person's civil commitment pursuant to N.J.S.A. 30:4-27.29 to -27.32;

(5) if the person is subject to an annual review hearing pursuant to N.J.S.A. 30:4-27.35, all documents in the possession, custody, or control of the State relating to the person's treatment and conduct while committed to a facility designated for the custody, care, and treatment of sexually violent predators;

(6) the name and address of each person whom the State expects to call at the civil commitment court hearing as an expert witness, the expert's qualifications, and a copy of the expert's report. The State may supplement its expert psychiatrist's report when an examination is conducted "as close to the court hearing date as possible, but in no event more than five calendar days prior to the court hearing," pursuant to N.J.S.A. 30:4-27.30(b). Any such supplemental report must be served no later than two calendar days before the court hearing. In the expert's report, the expert shall state the opinion, explain the basis for that opinion, identify any diagnosis relevant to the opinion and the basis for that diagnosis, identify any risk assessment instrument that the expert has used in the evaluation of the person, explain the manner in which the risk assessment instrument was used in the particular case, address any relevant static and dynamic factors, and summarize any findings with respect to the likelihood that the person will engage in acts of sexual violence if not confined to a secure facility for control, care, and treatment.

(b) If the person whom the State seeks to civilly commit pursuant to the Sexually Violent Predator Act seeks discovery in addition to the discovery set forth above, the person must proceed by motion on notice to the State, which motion shall be granted only on a showing of exceptional circumstances.

Note: Adopted September 9, 2020 to be effective September 10, 2020.