

## **SUPREME COURT OF NEW JERSEY**

It is ORDERED that the attached amendments to the following Rules Governing the Courts of the State of New Jersey are adopted to be effective January 1, 2017:  
Rules 2:9-1 and 2:9-13 (new).

For the Court,



Chief Justice

Dated: October 19, 2016

Rule 2:9-1. Control by Appellate Court of Proceedings Pending Appeal or Certification

(a) Control Prior to Appellate Disposition. Except as otherwise provided by R. 2:9-3, 2:9-4 (bail), 2:9-5 (stay pending appeal), 2:9-7, 2:9-13(f), and 3:21-10(d), the supervision and control of the proceedings on appeal or certification shall be in the appellate court from the time the appeal is taken or the notice of petition for certification filed. The trial court, however, shall have continuing jurisdiction to enforce judgments and orders pursuant to R. 1:10 and as otherwise provided. In addition, when an appeal is taken from an order compelling or denying arbitration, the trial court shall retain jurisdiction to address issues relating to claims and parties that remain in that court. When an appeal is taken from an order involving a child who has been placed in care by the Division of Child Protection and Permanency, the trial court shall retain jurisdiction to conduct summary hearings in due course to address issues not the subject of the appeal relating to the child or the child's family. Unless the appeal concerns the permanency plan of the child, the trial court also shall retain jurisdiction to conduct hearings to address the permanency plan of the child. The appellate court may at any time entertain a motion for directions to the court or courts or agencies below or to modify or vacate any order made by such courts or agencies or by any judge below.

(b) ... no change

(c) ... no change

Note: Source - R.R. 1:4-1 (first sentence), 1:10-6(a) (first and third sentences). Paragraph (a) amended July 16, 1981 to be effective September 14, 1981; paragraph (a) amended November 1, 1985 to be effective January 2, 1986; new paragraph (c) adopted July 16, 2009 to be effective September 1, 2009; paragraph (a) amended July 19, 2012 to be effective September 4, 2012; paragraph (a) amended July 27, 2015 to be effective September 1, 2015; paragraph (a) amended October 19, 2016 to be effective January 1, 2017.

2:9-13 Appeals from Orders Granting Pretrial Detention

(a) Appealable Order; Expedition. An order granting a motion for pretrial detention pursuant to R. 3:4A shall be appealable as of right to the Appellate Division. Appeals filed pursuant to this rule shall be expedited.

(b) Time to File Appeal; Order Transcript. An appeal shall be taken by serving and filing a notice of appeal and required Expedited Information Form within seven days of entry of the order granting pretrial detention. If appellant believes that a transcript is necessary to the consideration of the issues on appeal, the transcript shall be ordered at the expedited delivery rate simultaneously with the service and filing of the notice of appeal. A transcript shall be presumed to be required in at least the following instances, unless appellant believes that a transcript is not necessary to decide the issues on appeal: when witnesses have testified in the trial court and the basis of the appeal depends on review of that testimony; when there are material differences between the written order and the oral decision or related colloquy by the court; when an oral procedural or evidentiary ruling is being challenged; and when the trial court's factual findings are challenged. Notwithstanding the above, the court retains the authority to direct that the transcript be ordered by appellant at any time, if, in its determination, the record presented is insufficient for consideration of the issues on appeal.

(c) Time for Serving and Filing Letter Briefs; Length of Letter Briefs; Reply Letter Briefs. In those appeals in which a transcript has been ordered, the



appellant shall serve and file a letter brief and appendix within ten days after the delivery to appellant of the transcript. In those appeals in which no transcript has been ordered, and appellant has opted to file a letter brief, the letter brief and appendix shall be served and filed within ten days after the filing of the notice of appeal. Appellant's letter brief shall not exceed eight pages. The respondent shall serve and file an answering letter brief and appendix within ten days after the service of appellant's letter brief. In those appeals in which no transcript is required and the appellant has opted to rely on the Expedited Information Form and attachment, if any, in lieu of a letter brief, the respondent's brief and appendix shall be served and filed within ten days of the filing of the appellant's Expedited Information Form. Respondent's letter brief shall not exceed eight pages. No reply letter briefs or supplemental letter briefs shall be permitted without leave of court. There shall be no extensions of time to file letter briefs without leave of court.

(d) Consideration on the Record. Pretrial detention appeals shall be submitted for consideration on the record without argument, unless requested by the court. The following shall constitute the record on appeal:

1. Notice of appeal;
2. Expedited Information Form;
3. Detention order with written findings of fact and statement of reasons;
4. Public Safety Assessment;
4. Briefs;
6. Appendices;
7. Transcript, when required.

(e) Disposition of Appeals. Appeals of orders granting pretrial detention pursuant to this rule may be disposed of by opinion or order.

(f) Trial Court Retention of Jurisdiction. The filing and pendency of an appeal taken pursuant to this rule shall not divest the trial court of jurisdiction, unless otherwise ordered by the court.

(g) Continuing Obligation to Inform Court of Change in Detention Status. Appellant's counsel shall have a continuing obligation to inform the court immediately if there is any change to the appellant's pretrial detention status.

(h) Electronic Filing Required by Attorneys. Appeals of orders granting pretrial detention filed by attorneys must be filed through the Appellate Division's electronic filing application.

(i) Paper Filing by Self-Represented Defendants. Appeals of orders granting pretrial detention filed by defendants representing themselves must be filed in paper.

Adopted October 19, 2016 to be effective January 1, 2017.