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TO: Assignment Judges **DIRECTIVE # 25-21**
Trial Court Administrators

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

**SUBJ: Criminal/Family/Municipal – Procedures for Requests for
Judicial Review of Cases Captured or Not Captured by the
Automated Processes for Certain Marijuana or Hashish Cases**

DATE: September 7, 2021

In accordance with the Supreme Court's July 1, 2021 Order, this Directive promulgates procedures and two forms for requests for judicial review of certain marijuana and hashish cases enumerated in the Marijuana Decriminalization Law, L. 2021, c. 19 (codified in relevant part at N.J.S.A. 2C:35-23.1 and N.J.S.A. 2C:52-6.1), that were captured or not captured in the Judiciary's automated processes to dismiss, vacate, and/or expunge cases. The procedures and appended forms (Motion and Form Order) are effective immediately.

The Supreme Court Order provides that any case not captured by the automated processes may be brought by motion to dismiss or motion to vacate (depending on the status of the case) to the court that had jurisdiction over the case (Municipal Court or Superior Court) or by individual expungement petition to the Superior Court. The Order further provides that any unresolved legal or administrative issues related to a particular case that was included in the automated process shall be brought by motion before the court that had jurisdiction over the case (Municipal Court or Superior Court).

To that end, the procedures set forth below and the appended motion form (Attachment 1) should be used by defendants, parents on behalf of juveniles, their attorneys, or the State to request judicial review because (1) the case was not dismissed OR was not vacated and then dismissed; (2) the case was not expunged; or (3) the State believes the case should not have been dismissed, vacated, and/or expunged. The appended form order (Attachment 2) should be used to provide the court's decision.

1. Requests for Judicial Review to Dismiss/Vacate the Case

Requests for the Superior Court to dismiss a case or to first vacate and then dismiss a case should be filed in the county where the conviction or adjudication of delinquency occurred. Attorneys should file the motion in eCourts. Individuals who do not have an attorney should file in the Judiciary Electronic Document Submission (JEDS) system, which is located on the Judiciary's website at www.njcourts.gov/selfhelp/jeds.html. Instructions on filing this motion can be downloaded from that same site.

For Municipal Court cases, these motions should be filed directly with the municipal court that had original jurisdiction over the case. This can be done by sending it to the municipal court or by accessing the JEDS system at the above link.

Consistent with the Supreme Court Order, where the court grants the requested relief (e.g., dismisses the case), where appropriate, the court shall also order the matter to be expunged (excluding N.J.S.A. 39:4-49.1, which is not eligible for expungement) pursuant to N.J.S.A. 2C:52-6(a). Court staff should then follow the standard processes for an expedited expungement, including preparing the automated expungement order.

2. Requests by Defendants or Juveniles for Judicial Review to Expunge the Case

For requests limited to expunging the case, a petition for expungement under the Marijuana Decriminalization Law should be filed in the eCourts Expungement System on the Judiciary's website at www.njcourts.gov/selfhelp/expungement.html. Instructions on filing the petition are included on that webpage.

Because N.J.S.A. 2C:52-6.1 provides that cases that fall under the enumerated offenses shall be "expunged by operation of law," this petition will follow the automated processes for a marijuana expungement (N.J.S.A. 2C:52-5.1), i.e., the petition will be directed to the court without prosecutorial review. If the court orders the expungement, the System will provide notification to the prosecutor's office, Municipal Court, if applicable, the State Police, and the appropriate law enforcement agencies. If the prosecutor believes the case should not have been expunged, the process outlined below should be followed.

3. Requests by the State for Judicial Review of a Case that Should Not Have Been Dismissed/Vacated/Expunged

Requests by the State should be filed in JEDS for Superior Court (Criminal and Family) cases and via a paper motion for Municipal Court cases. The prosecutor

shall provide a copy of the motion to the defendant/parent (juvenile), or their attorney, if applicable.

Where the motion is granted and the court orders the dismissal vacated, the conviction reinstated and/or the expungement vacated, court staff will provide a copy of the court order to the parties. It shall be the responsibility of the prosecutor to distribute the court order to the appropriate law enforcement agencies.

Questions regarding this Directive, or the appended forms should be directed to the Criminal Practice Division at 609-815-2900 ext. 55300, the Family Practice Division at 609-815-2900 ext. 55350, or the Municipal Court Services Division at 609-815-2900 ext. 54850.

Attachments (1) Motion Form (CN 12840)
(2) Form Order (CN 12841)

cc: Chief Justice Stuart Rabner
Criminal Presiding Judges
Family Presiding Judges
Municipal Court Presiding Judges
Steven D. Bonville, Chief of Staff
AOC Directors and Assistant Directors
Clerks of Court
Special Assistants to the Administrative Director
AOC Criminal, Family, Municipal Chiefs
Criminal Division Managers and Assistants
Family Division Managers and Assistants
Municipal Division Managers and Assistants
Municipal Court Directors and Administrators

Attachment 1

**Motion Requesting Judicial Review of Certain
Marijuana and Hashish Cases Pursuant to the
Marijuana Decriminalization Law, L. 2021, c. 19**

(CN 12840)

Filing Attorney or Prosecuting Attorney Information (if applicable)

Attorney Name: _____

NJ Attorney ID Number: _____

Address: _____

Email: _____

Defendant/Juvenile Information

Defendant/Juvenile Name: _____

Address: _____

Email: _____

State Bureau of Identification

(SBI) Number, if available: _____

Date of Birth: _____

State of New Jersey

Plaintiff,

v.

Defendant/Juvenile.

Superior Court of New Jersey

Division

- Select County - County

OR

Municipal Court: _____

Docket Number/

Complaint Number/

Accusation Number/

Indictment Number: _____

Motion

Requesting Judicial Review of
Certain Marijuana and Hashish
Cases Pursuant to The Marijuana
Decriminalization Law,
L. 2021, c. 19

Take notice that the undersigned requests judicial review in the matter of State of NJ v.
(defendant/juvenile name) _____, charged with the
offense(s) listed below;

Date of Offense	N.J.S.A. Statute Number	Disposition (if applicable)	Date of Disposition (if applicable)

arising out of (municipality) _____ as set forth in
(original indictment/accusation/summons/warrant/complaint/FJ or FO docket
number) _____.

I request that the court review the matter set forth above for the following reason (check one):

- ☐ Should be dismissed or vacated and dismissed pursuant to N.J.S.A. 2C:35-23.1.
- ☐ Should not have been dismissed/vacated/expunged.
- ☐ Other: _____

Please provide reason(s) for your request below:

Date

Signature

Attachment 2

Order – Marijuana Decriminalization Law Automated Processes Case Review

(CN 12841)

State of New Jersey

Plaintiff,

v.

Defendant/Juvenile.

Superior Court of New Jersey
- Select County - County
OR

Municipal Court: _____
Docket Number/
Complaint Number/
Accusation Number/
Indictment Number: _____

Order
Marijuana Decriminalization Law
Automated Processes Case Review

This Matter having come before the Court upon motion of
(defendant/juvenile name) _____ seeking judicial
review, pursuant to the Supreme Court Order(s) related to the Marijuana Decriminalization Law
Automated Process, of the above-captioned matter as it;

☐ Should have been included in the automated process.

☐ Should not have been included in the automated process.

It Is on This ____ **day of** _____, **20**____ **Ordered** that (Docket Number/ Complaint
Number/ Accusation Number/ Indictment Number) _____ is:

☐ Dismissed pursuant to N.J.S.A. 2C:35-23.1.

☐ Vacated and dismissed pursuant to N.J.S.A. 2C:35-23.1.

☐ Should not have been dismissed and the matter shall be reinstated.

☐ Should not have been dismissed and expunged, and the matter shall be reinstated.

☐ Should not have been dismissed, vacated, and expunged, and the matter shall be
reinstated.

Date

Signature