

#008

**KENNETH VERCAMMEN & ASSOCIATES, PC**  
**ATTORNEY AT LAW**

2053 Woodbridge Ave.

Edison, NJ 08817

(Phone) 732-572-0500

(Fax) 732-572-0030

April 1, 2017



Glenn A. Grant, J.A.D.

Acting Administrative Director of the Courts

Rules Comments

Hughes Justice Complex; P.O. Box 037

Trenton, New Jersey 08625-0037

Comments on the Committee's report and  
recommendations Recommendation to permit  
prosecutors to plea bargain in DWI & Drug  
cases

Dear Judge Grant:

I am a trial attorney handling primarily Municipal Court and Criminal cases. I recommend changes to Rule 7:6-2(d) and Guideline 3.

The Supreme Court should permit a Municipal Court Prosecutors to appropriately plea bargain DWI and refusal tickets and drug offenses.

Back in 2004 our court rules allowed a prosecutor to merge/dismiss a refusal ticket when a driver pleas guilty to DWI. The court should not tie the prosecutor's hands and continue to bar dismissals of refusal tickets.

Municipal Court Prosecutors are generally well qualified, experienced attorneys who can best determine which cases to have trials, and which to negotiate pleas. Many police, attorneys and prosecutor recommend the Rules actually be relaxed to explicitly permit prosecutor to plea bargain all DWI matters. Since prosecutors in Superior Court can plea bargain murder, rape and drug dealing, plea bargains should be permitted in traffic offenses such as DWI.

Judicial economy and justice is not served by requiring trials on refusal charges. When a defendant is willing to plead guilty to a DWI, it

makes sense to continue to permit a prosecutor to merge the refusal into the DWI.

Sometimes the Prosecutor has difficulty proving the BAC is .10 or over. Commonly, the breath testing machine inspection certificates take months to be provided by State Police. When the Prosecutor is not provided with required discovery, they should be permitted to have a defendant plead guilty to the DWI, but to the DWI 3 month suspension. Prosecutors must be given latitude to determine which cases to properly negotiate pleas.

Very truly yours,



KENNETH A. VERCAMMEN