

ADMINISTRATIVE OFFICE OF THE COURTS
STATE OF NEW JERSEY

ROBERT D. LIPSCHER
ADMINISTRATIVE DIRECTOR OF THE COURTS



CN-037
TRENTON, NEW JERSEY 08625

July 19, 1991

Directive #3-91
(Supercedes Directives #2-79 & 2A-79)

MEMORANDUM TO: County Clerks
FROM: Robert D. Lipscher *RDL*
SUBJECT: **Three-Judge Resentencing Panel
Revised Procedures**

The procedure for filing motions for sentence review by the three judge resentencing panel under N.J.S.A. 2C:1-1d(2) is hereby modified. N.J.S.A. 2C:1-1d(2) permits persons sentenced prior to the effective date of the Code of Criminal to move to have their sentence reviewed if: (1) the offense is one that has been eliminated by the Code or (2) the maximum term of imprisonment imposed exceeds the maximum established by the Code for such an offense. Effective immediately, an original and four copies of the motion papers should be filed with the county clerk of the county where the defendant was convicted and sentenced. The county clerk will forward the papers to Richard Talty, Director, Intensive Supervision Program, Administrative Office of the Courts, CN 987, Richard Hughes Justice Complex, Trenton, New Jersey 08625. A copy of the motion papers must also be served on the prosecuting attorney of the county where the defendant was convicted or the Attorney General's Office if the offense was prosecuted by that office.

Attached are three forms to be used to implement the revised procedures. Form 1 should be sent by the county clerk to movant's counsel or, if movant is unrepresented, directly to the movant. Form 2 should be used if the papers are defective. Defective papers should only be returned if they cannot easily be completed by supplementation. Note that in a pro se case a total of five copies of the applicant's papers are required, one to be sent to the Public Defender in your county and four to Richard Talty, Director, Intensive Supervision Program, who has been designated to record and process all papers received from county clerks involving motions for sentence review under the N.J.S.A. 2C:1-1d(2). If the

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motion was made by an attorney, only four copies are required. Form 3 is to be used in transmitting papers to Mr. Talty.

When the panel decides the matter, the appropriate order or judgment will be filed with the county clerk so that the records will be complete.

The attached forms should be reproduced locally.

R.D.L.

/ma
Attachments

cc: Assignment Judges
Trial Court Administrators
Criminal Division Managers

Form 1

**To Be Sent By County Clerks Immediately
To All Applicants Upon Receipt of Papers.**

_____ 's (insert name of defendant)

[] pro se application

[] application through an attorney for resentence,

pursuant to N.J.S.A. 2C:1-1(d) (2) (Code of Criminal Justice) has been received and appears to be in order. They will be referred for disposition to a Panel of three judges designated by the Chief Justice. The Panel may dismiss the motion without hearing, may determine that a hearing is required or take other appropriate action. If a hearing is required, notice of the time and place will be mailed to the applicant or his attorney.

A person not represented by an attorney, should be.

A person who cannot afford an attorney should request the Office of the Public Defender to represent him.

Very truly yours,

County Clerk

Form 2

**To Be Immediately Forwarded To Applicants
Whose Papers Are Defective.**

_____ 's (Insert defendant's name)

application for resentencing pursuant to N.J.S.A. 2C:1-1(d) (2) (Code of Criminal Justice) has been received. It is being filed. However, the papers are defective in the following respects:

1. [] Do not show whether applicant is presently incarcerated for the crime for which he seeks resentencing.
2. [] Do not show under which 2C crime (he) (she) wishes to be resented.
3. [] Are not signed by defendant.
4. [] Are not verified.
5. [] Supply _____ additional copies of your papers.
6. [] Do not show service upon the County Prosecutor.
7. [] **THE ENCLOSED COPY OF THIS CHECKLIST MUST BE RETURNED WITH YOUR COMPLETED PAPERS.**

When the papers have been perfected, they will be sent to the Panel for disposition.

Very truly yours,

County Clerk

FORM 3

**CHECKLIST TO BE COMPLETED BY COUNTY CLERK FOR
RESENTENCE APPLICATION PURSUANT TO N.J.S.A. 2C:1-1(d) (2).**

_____ County

Name of Defendant _____ Accusation of Indictment No. _____

1. Present place of incarceration of defendant:

2. Copy of Motion Papers has been sent to sentencing county's Prosecutor or the Attorney General's Office.
3. If motion is pro se, copy of Motion Papers has been sent to Public Defender of sentencing county.
4. The items listed below are to be forwarded to

Richard Talty, Director
Intensive Supervision Program
Administrative Office of the Courts
CN 987
Richard Hughes Justice Complex
Trenton, New Jersey 08625

Please check each item which is sent:

- Four copies of Motion Papers
- Four copies of Judgment of Conviction
- Four copies of Plea Agreement (if applicable) such as CPO114, CPO115 or similar form
- Four copies of Docket Sheet
- Executed copy of this Checklist