

**DONINI & RAMSEY
2000 HAMILTON AVENUE
HAMILTON, NEW JERSEY 08619
(609) 396-7979
ATTORNEY FOR DEFENDANT**

| | | |
|----------------------------|----------|--|
| STATE OF NEW JERSEY | : | EWING TOWNSHIP MUNICIPAL COURT MERCER COUNTY |
| Plaintiff | : | SUMMONS NO. EWG123456 |
| vs. | : | QUASI-CRIMINAL ACTION |
| SCOTT A. BROWN | : | NOTICE OF MOTION TO DISMISS PURSUANT TO <u>RULE</u> 7:8-5 |
| Defendant | : | |

TO: Honorable Judge Dredd, J.M.C.
Ewing Township Municipal Court
2 Jake Garzio Drive
Ewing, New Jersey 08628

Peter Pan, Municipal Prosecutor
Ewing Township Municipal Court
2 Jake Garzio Drive
Ewing, New Jersey 08628

Mary Poppins, Court Administrator
Ewing Township Municipal Court
2 Jake Garzio Drive
Ewing, New Jersey 08628

PLEASE TAKE NOTICE that on a date to be set by the court the undersigned counsel will move for an Order dismissing complaint no. EWG123456 as being written out of the statute of limitations pursuant to N.J.S.A. 39:5-3.

In support of the within application, the undersigned counsel shall rely upon the annexed Memorandum of Law.

DONINI & RAMSEY

ROBERT RAMSEY

Dated: October 21, 2011

**DONINI & RAMSEY
2000 HAMILTON AVENUE
HAMILTON, NEW JERSEY 08619
(609) 396-7979
ATTORNEY FOR DEFENDANT**

| | | |
|----------------------------|----------|---|
| STATE OF NEW JERSEY | : | EWING TOWNSHIP MUNICIPAL COURT MERCER COUNTY |
| Plaintiff | : | SUMMONS NO. EWG123456 |
| vs. | : | QUASI-CRIMINAL ACTION |
| SCOTT A. BROWN | : | ORDER |
| Defendant | : | |

THIS MATTER HAVING BEEN opened to the Court upon the application of Donini & Ramsey, Esquires, Robert Ramsey, Esquire, appearing, and the Court having considered the arguments of counsel and other good cause having been shown;

IT IS ON THIS _____ DAY OF _____, 2011;

ORDERED that complaint no. EWG123456 be and hereby is dismissed.

Judge Dredd, J.M.C.

VICINAGE 7 MUNICIPAL COURTS
RULE 7:8-7(b) CERTIFICATION
(APPLICATION FOR APPOINTMENT AS PRIVATE COUNSEL)

State of New Jersey vs. Scott Brown
Docket Nos. EWG123456
Charges: N.J.S.A. 39:4-97

Attorney Information:

Name: Donini & Ramsey, Attorneys-at-Law
Address: 2000 Hamilton Avenue, Hamilton, New Jersey 08619
Telephone No.: (609) 396-7979

This Certification is supplied to the **Ewing Township Municipal Court** and Prosecutor pursuant to Rule 7:8-7(b) and State vs. Storm, 141 N.J. 245(1995) to provide the Court and the Prosecutor with the necessary information to determine whether I may be appointed as an impartial private prosecutor for John Doe, the complaining witness in the above matters.

1. The complaining witness is an individual.
2. There is no actual conflict of interest arising from my representation as evident from my ethical and professional obligations, and my fee arrangement with the complaining witness.
3. The municipal prosecutor has agreed to stand aside and has not exercised or retained any degree of control over the prosecution and the possibility if preserving the appropriate prosecutorial rule and function give the victim's state in the prosecutor.
4. Defendant is expected to be represented by counsel. () Yes () No () Unknown.
5. If appointed as private prosecutor, I will fully comply with Rule 7:4-2(h) and Brady vs. Maryland, 373 U.S. 83(1975) (Disclosure of Exculpatory Evidence). I will proceed only if probable cause is found and I will be willing to enter negotiations regarding a plea/sentence agreement with the defendant.
6. There is no civil litigation, existing or anticipated between the complaining witness and the defendant concerning same or similar facts as the criminal charge. In the event of such civil litigation, I have informed the complaining witness that neither I nor any member of my firm will undertake the complaining witnesses' representation in that matter.
7. There are no other facts that could affect the appearance of impartial justice, the impartiality of counsel as private prosecutor and the fairness of proceeding or otherwise create an appearance of impropriety.

*The seriousness of the charge(s) is a factor that will be considered by the Court and the Municipal Prosecutor.

CERTIFICATION IN LIEU OF OATH

I hereby certify that the foregoing information made by me are true. I am aware that if any of the foregoing statements made by me are willfully false. I am subject to punishment.

Dated

Private Prosecutor Attorney Applicant

**DONINI & RAMSEY
2000 HAMILTON AVENUE
HAMILTON, NEW JERSEY 08619
(609) 396-7979
ATTORNEY FOR DEFENDANT**

| | | |
|----------------------------|----------|---|
| STATE OF NEW JERSEY | : | EWING TOWNSHIP MUNICIPAL COURT MERCER COUNTY |
| Plaintiff | : | SUMMONS NO. EWG123456 |
| vs. | : | QUASI-CRIMINAL ACTION |
| SCOTT A. BROWN | : | NOTICE OF MOTION |
| Defendant | : | PURSUANT TO <u>RULE</u> 7:7-1 |

TO: Peter Pan, Municipal Prosecutor
Ewing Township Municipal Court
2 Jake Garzio Drive
Ewing, New Jersey 08628

PLEASE TAKE NOTICE that on a date to be set by the Court, unless the results of the laboratory tests have been provided to Defense, the undersigned counsel will move for an Order barring the State from using any report or opinion related to any substances found in Defendant's urine sample in connection the above captioned matter.

In support of the within application, the undersigned counsel will rely upon oral argument and the rule of law established by the Appellate Division in State vs. Holup, 253 N.J.Super 320 (App.Div.1992).

DONINI & RAMSEY

ROBERT RAMSEY

Dated: October 21, 2011

**DONINI & RAMSEY
2000 HAMILTON AVENUE
HAMILTON, NEW JERSEY 08619
(609) 396-7979
ATTORNEY FOR DEFENDANT**

| | | |
|----------------------------|----------|---|
| STATE OF NEW JERSEY | : | EWING TOWNSHIP MUNICIPAL COURT MERCER COUNTY |
| Plaintiff | : | SUMMONS NO. EWG123456 |
| vs. | : | QUASI-CRIMINAL ACTION |
| SCOTT A. BROWN | : | ORDER |
| Defendant | : | |

THIS MATTER having been opened to the Court upon the application of Donini & Ramsey, Esquires, Robert Ramsey, Esquire, appearing, and the Court having considered the arguments of counsel and other good cause having been shown;

IT IS ON THIS _____ DAY OF _____, 2011;

ORDERED that any report or opinion related to any substances found in Defendant's urine be barred as evidence in the trial of the above matter.

Judge Dredd, J.M.C.

**DONINI & RAMSEY
2000 HAMILTON AVENUE
HAMILTON, NEW JERSEY 08619
(609) 396-7979
ATTORNEY FOR DEFENDANT**

| | | |
|----------------------------|----------|---|
| STATE OF NEW JERSEY | : | EWING TOWNSHIP MUNICIPAL COURT MERCER COUNTY |
| Plaintiff | : | SUMMONS NO. EWG123456 |
| vs. | : | QUASI-CRIMINAL ACTION |
| SCOTT A. BROWN | : | NOTICE OF MOTION TO QUASH PURSUANT TO <u>RULE</u> 7:7-8(h) |
| Defendant | : | |

TO: Honorable Judge Dredd, J.M.C.
Ewing Township Municipal Court
2 Jake Garzio Drive
Ewing, New Jersey 08628

Peter Pan, Municipal Prosecutor
Ewing Township Municipal Court
2 Jake Garzio Drive
Ewing, New Jersey 08628

Mary Poppins, Court Administrator
Ewing Township Municipal Court
2 Jake Garzio Drive
Ewing, New Jersey 08628

PLEASE TAKE NOTICE that on a date to be set by the court, the undersigned counsel will move for an Order Quashing a subpoena *duces tecum* issued on complaint no. EWG123456 in the Ewing Township Municipal Court and served upon John W. Smith on or about May 6, 1998.

In support of the within application, the undersigned counsel shall rely upon the annexed Letter of Memorandum of Law and oral argument.

DONINI & RAMSEY

ROBERT RAMSEY

Dated: October 21, 2011

**DONINI & RAMSEY
2000 HAMILTON AVENUE
HAMILTON, NEW JERSEY 08619
(609) 396-7979
ATTORNEY FOR DEFENDANT**

| | | |
|----------------------------|----------|---|
| STATE OF NEW JERSEY | : | EWING TOWNSHIP MUNICIPAL COURT MERCER COUNTY |
| Plaintiff | : | SUMMONS NO. EWG123456 |
| vs. | : | QUASI-CRIMINAL ACTION |
| SCOTT A. BROWN | : | ORDER |
| Defendant | : | |

THIS MATTER HAVING BEEN opened to the Court upon the application of Donini & Ramsey, Esquires, Robert Ramsey, Esquire, appearing, and the Court having considered the arguments of counsel and other good cause having been shown;

IT IS ON THIS _____ DAY OF _____, 2011;

ORDERED that the subpoena *duces tecum* issued to John W. Smith in association with complaint no. EWG123456 be and hereby is quashed.

Judge Dredd, J.M.C.

**DONINI & RAMSEY
2000 HAMILTON AVENUE
HAMILTON, NEW JERSEY 08619
(609) 396-7979
ATTORNEY FOR DEFENDANT**

| | | |
|----------------------------|----------|---|
| STATE OF NEW JERSEY | : | EWING TOWNSHIP MUNICIPAL COURT MERCER COUNTY |
| Plaintiff | : | SUMMONS NO. EWG123456 |
| vs. | : | QUASI-CRIMINAL ACTION |
| SCOTT A. BROWN | : | NOTICE OF MOTION TO RECONSIDER BAIL PURSUANT TO <u>RULE</u> 7:4-2(B) |

TO: Honorable Judge Dredd, J.M.C.
Ewing Township Municipal Court
2 Jake Garzio Drive
Ewing, New Jersey 08628

Peter Pan, Municipal Prosecutor
Ewing Township Municipal Court
2 Jake Garzio Drive
Ewing, New Jersey 08628

Mary Poppins, Court Administrator
Ewing Township Municipal Court
2 Jake Garzio Drive
Ewing, New Jersey 08628

PLEASE TAKE NOTICE that on a date to be set by the Court, the undersigned, counsel for Defendant, Scott A. Brown, will make an application before the Ewing Township Municipal Court for a change in the condition of bail previously imposed on complaint no. EWG123456.

In support of the within application, the undersigned counsel will rely upon the annexed Memorandum of Law and oral argument.

DONINI & RAMSEY

ROBERT RAMSEY

Dated: October 21, 2011

**DONINI & RAMSEY
2000 HAMILTON AVENUE
HAMILTON, NEW JERSEY 08619
(609) 396-7979
ATTORNEY FOR DEFENDANT**

| | | |
|----------------------------|----------|---|
| STATE OF NEW JERSEY | : | EWING TOWNSHIP MUNICIPAL COURT MERCER COUNTY |
| Plaintiff | : | SUMMONS NO. EWG123456 |
| vs. | : | QUASI-CRIMINAL ACTION |
| SCOTT A. BROWN | : | |
| Defendant | : | ORDER |

THIS MATTER having been opened to the Court upon the application of Donini & Ramsey, Esquires, Robert Ramsey, Esquire, appearing, and the Court having considered the arguments of counsel, and other good cause having been shown;

IT IS ON THIS _____ DAY OF _____, 2011;

ORDERED that Defendants application for reconsideration of bail pursuant to Rule 7:4-2(b) on the above captioned complaint be and is hereby granted.

Judge Dredd, J.M.C.

**WRITTEN STATEMENT OF REASONS SUPPORTING
WAIVER OF FORFEITURE OF PUBLIC OFFICE**

Case Name: State vs. Scott A. Brown

Defendant in the above titled matter intends to enter a plea of guilty to a violation of N.J.S.A. 2C:33-4(a) in that he made communications anonymously and in extremely inconvenient hours using coarse language with the purpose to harass or annoy another. Defendant is a public employee, having served as a police officer for the past twenty years. He has been a senior officer at the Mayberry Police Department for the past six years. The following guidelines militate in favor of waiver of forfeiture of public office.

1) TOTALITY OF CIRCUMSTANCES SURROUNDING THE EVENT

Defendant is married with two small children. For a period of many months prior to the commission of the offense, Defendant's wife developed a friendship with a male who became the victim of the harassment in this case. Although the friendship between the wife and the victim appeared initially to be innocent, as time went on, more and more evidence came to Defendant's attention which led him to believe that his wife and the victim were having an extra-marital affair. The offense occurred during the late evening when Defendant was off duty. While intoxicated, he called the victim's cell phone at inconvenient hours and left threatening messages indicating that the victim was to stay away from his wife. Although highly intoxicated, it is clear that Defendant had the purpose to harass the victim. His communication was made anonymously at extremely inconvenient hours in offensively coarse language were clearly calculated to harass the victim and cause him annoyance or alarm.

2) NATURE OF THE OFFENSE

The offense from which Defendant will enter a plea of guilty constitutes a petty disorderly persons offense.

3) QUALITY OF MORAL TURPITUDE OR DEGREE OF GUILT OR CULPABILITY

This petty disorderly person's offense does not contain any aspect of moral turpitude. However, Defendant's degree of culpability is total except to the extent that provocation and intoxication can be considered as mitigating factors.

4) DUTIES OF EMPLOYEE

As a senior police officer, one would expect that the defendant would be on duty at all times, especially within his own jurisdiction. He has an affirmative duty to enforce the law and not violate it. State vs. Rodriguez, 383 N.J.Super 663(App.Div.2006). Indeed, when an infraction casts a shadow over the employee as to make his continued service appear incompatible with the traits of trustworthiness, honesty and obedience to law and order, then forfeiture is appropriate. Moore vs. Youth Correctional Institute, 119 N.J. 256(1990). Notwithstanding these duties as established by case law, in the instant case Defendant's misconduct occurred while he was off duty, in his own home. The offense was in a county which was remote from Defendant's appointing authority. The petty disorderly person's offense which Defendant committed occurred under circumstances that were completely divorced from his duties and responsibilities as a police officer.

5) THE RELATIONSHIP BETWEEN THE OFFENSE AND EMPLOYEE'S DUTIES

Apart from Defendant's admitted general duties to uphold the criminal laws of New Jersey, the commission of the petty disorderly person's offense in this case had no direct or collateral connection to Defendant's duties as a police officer and occurred at a time when he was off duty and in his own home.

6) EMPLOYEE'S LENGTH OF SERVICE

Defendant has been a police officer for approximately twenty years.

7) THE EMPLOYER'S DESIRES

Defendant's Chief of Police has indicated that he would take disciplinary action against him of an administrative nature at the conclusion of his sentencing. However, his chief does not seek a harsh consequence and certainly does not seek forfeiture from public office.

8) THE NEED AND INTERESTS OF THE VICTIM AND SOCIETY, INCLUDING CONSIDERATION OF THE VICTIM'S DESIRES

The victim has expressed no desire to see Defendant receive a forfeiture of public office.

9) THE EXTENT TO WHICH THE EMPLOYEE'S OFFENSE CONSTITUTES PART OF A CONTINUING PATTERN OF ANTI-SOCIAL BEHAVIOR

There is no evidence to suggest that Defendant's activities constituted any type of continuing pattern of anti-social behavior. Rather, it appears to be a single, isolated incident which occurred while Defendant was subject to an unusual provocation coupled with a high degree of intoxication.

10) THE EMPLOYEE'S PRIOR RECORD OF CONVICTIONS AND DISCIPLINARY INFRACTIONS

Defendant has no prior history of conviction or disciplinary infractions.

11) THE THREAT PRESENTED TO COWORKERS OR THE PUBLIC IF THE EMPLOYEE IS PERMITTED TO RETAIN HIS OR HER POSITION

There is no threat to the public, coworkers or any other person if Defendant is permitted to maintain his public employment.

12) ANY INVOLVEMENT OF THE EMPLOYEE WITH ORGANIZED CRIME

Defendant's case has no relation whatsoever to organized crime.

13) WHETHER THE EMPLOYEE HAS BEEN GRANTED WAIVER ON A PRIOR OCCASION

Defendant has not been granted a waiver on a prior occasion.

14) THE IMPACT OF WAIVER ON THE EMPLOYMENT STATUS OF CO-DEFENDANTS

There were no co-defendants in this case.

15) WHETHER WAIVER OF FORFEITURE OF OFFICE WOULD UNDERMINE PUBLIC CONFIDENCE IN THE INTEGRITY OF IMPORTANT GOVERNMENTAL FUNCTIONS, INCLUDING BUT NOT LIMITED TO LAW ENFORCEMENT FUNCTIONS

It is highly unlikely the waiver of forfeiture of public office would undermine the public’s confidence in the integrity of law enforcement functions especially since Defendant will be disciplined by both the sentencing court as well as administratively by his own department.

16) NATURE AND SCOPE OF COOPERATION WITH PROSECUTING AUTHORITIES

Defendant has been completely cooperative with investigating authorities in this matter having given them long involved, detailed statements both to his own department as well as the New Jersey State Police who were tasked with the investigation of this matter. He has also met on an informal basis with investigators from the Office of the Mayberry County Prosecutor and has been available at all stages of the State’s investigation to cooperate and provide whatever was needed to bring this matter to a conclusion.

DENIAL OF WAIVER OF FORFEITURE AND DISQUALIFICATION OF PUBLIC OFFICE

In determining whether to request a waiver of forfeiture or disqualification of office in accordance with N.J.S.A. 2C:51(2), I considered all of the above factors in accordance with the Attorney General Guidelines for Waiver of Forfeiture or Disqualification of Office and for the forgoing reasons, hereby decline to seek waiver of forfeiture or disqualification of office.

Signature

Date

Submitted By:

Signature

Date

APPROVAL OF WAIVER OF FORFEITURE AND DISQUALIFICATION

In determining whether to request a waiver of forfeiture or disqualification of office in accordance with N.J.S.A. 2C:51(2), I considered all of the above factors in accordance with the Attorney General Guidelines for Waiver of Forfeiture or Disqualification of Office and for the forgoing reasons, hereby agree to seek waiver of forfeiture and disqualification of office.

Signature

Date

Submitted By:

Signature

Date

**DONINI & RAMSEY
2000 HAMILTON AVENUE
HAMILTON, NEW JERSEY 08619
(609) 396-7979
ATTORNEY FOR DEFENDANT**

| | | |
|----------------------------|----------|--|
| STATE OF NEW JERSEY | : | EWING TOWNSHIP MUNICIPAL COURT MERCER COUNTY |
| Plaintiff | : | SUMMONS NO. EWG123456 |
| vs. | : | QUASI-CRIMINAL ACTION |
| SCOTT A. BROWN | : | NOTICE OF MOTION TO SUPPRESS EVIDENCE PURSUANT TO <u>RULE</u> 7:5-2 |
| Defendant | : | |

TO: Peter Pan, Municipal Prosecutor
Ewing Township Municipal Court
2 Jake Garzio Drive
Ewing, New Jersey 08628

PLEASE TAKE NOTICE that the undersigned shall make application to the above named Court located at 2 Jake Garzio Drive, Ewing, New Jersey, on a date to be set by the Court for an Order Suppressing any and all evidence for the search and seizure of his motor vehicle, which was had no probable cause for the arrest and investigation;

In support of the within Motion, the undersigned shall rely upon oral argument.

DONINI & RAMSEY

ROBERT RAMSEY

Dated: October 21, 2011

**DONINI & RAMSEY
2000 HAMILTON AVENUE
HAMILTON, NEW JERSEY 08619
(609) 396-7979
ATTORNEY FOR DEFENDANT**

| | | |
|----------------------------|----------|---|
| STATE OF NEW JERSEY | : | EWING TOWNSHIP MUNICIPAL COURT MERCER COUNTY |
| Plaintiff | : | SUMMONS NO. EWG123456 |
| vs. | : | QUASI-CRIMINAL ACTION |
| SCOTT A. BROWN | : | ORDER TO SUPPRESS EVIDENCE |
| Defendant | : | PURSUANT TO <u>RULE</u> 7:5-2 |

THIS MATTER having been opened to the Court upon the application of Donini & Ramsey, Esquire, Robert Ramsey, Esquire, representing the defendant, Scott A. Brown, and good cause having been shown;

IT IS ON THIS _____ DAY OF _____, 2011;

ORDERED that any and all evidence related to the above referenced complaint, against the defendant, be and is hereby suppressed for lack of probable cause for an arrest.

Judge Dredd, J.M.C.

**DONINI & RAMSEY
2000 HAMILTON AVENUE
HAMILTON, NEW JERSEY 08619
(609) 396-7979
ATTORNEY FOR DEFENDANT**

| | | |
|----------------------------|----------|--|
| STATE OF NEW JERSEY | : | EWING TOWNSHIP MUNICIPAL COURT MERCER COUNTY |
| Plaintiff | : | SUMMONS NO. EWG123456 |
| vs. | : | QUASI-CRIMINAL ACTION |
| SCOTT A. BROWN | : | NOTICE OF MOTION FOR CHANGE OF SENTENCE PURSUANT TO <u>RULE</u> 7:9-4 |
| Defendant | : | |

PLEASE TAKE NOTICE that on a date to be set by the Court, pursuant to Rule 7:9-4, the undersigned, counsel for Defendant, Scott A. Brown, will make an application before the Lawrence Township Municipal Court for a change of sentence previously imposed on complaint no. EWG123456 on September 15, 2011.

In support of the within application, the undersigned counsel will rely upon the annexed Memorandum of Law and oral argument.

DONINI & RAMSEY

ROBERT RAMSEY

Dated: October 21, 2011

**DONINI & RAMSEY
2000 HAMILTON AVENUE
HAMILTON, NEW JERSEY 08619
(609) 396-7979
ATTORNEY FOR DEFENDANT**

| | | |
|----------------------------|----------|---|
| STATE OF NEW JERSEY | : | LAWRENCE TWP. MUNICIPAL COURT MERCER COUNTY |
| Plaintiff | : | SUMMONS NO. 123456 |
| vs. | : | QUASI-CRIMINAL ACTION |
| SCOTT A. BROWN | : | ORDER GRANTING DEFENDANT'S RECONSIDERATION OF SENTENCE PURSUANT TO <u>RULE</u> 7:9-4 |
| Defendant | : | |

THIS MATTER having been opened to the Court upon the application of Donini & Ramsey, Esquires, Robert Ramsey, Esquire, appearing, and the Court having considered the arguments of counsel, and other good cause having been shown;

IT IS ON THIS _____ DAY OF _____, 2011;

ORDERED that Defendant's application for reconsideration of sentence pursuant to Rule 7:9-4 on the above captioned complaint be and is hereby granted.

Judge Dredd

**DONINI & RAMSEY
2000 HAMILTON AVENUE
HAMILTON, NEW JERSEY 08619
(609) 396-7979
ATTORNEY FOR DEFENDANT**

| | | |
|----------------------------|----------|--|
| STATE OF NEW JERSEY | : | EWING TOWNSHIP MUNICIPAL COURT MERCER COUNTY |
| Plaintiff | : | SUMMONS NO. EWG123456 |
| vs. | : | QUASI-CRIMINAL ACTION |
| SCOTT A. BROWN | : | NOTICE OF MOTION FOR RECONSIDERATION OF SENTENCE PURSUANT TO <u>RULE</u> 1:7-4(b) |
| Defendant | : | |

PLEASE TAKE NOTICE that on a date to be set by the Court, the undersigned, counsel for Defendant, Scott A. Brown, will make an application before the Ewing Township Municipal Court requesting the Court to reconsider the decision it made in its finding of guilty on complaint number EWG123456 following a trial on the merits on August 20, 2007 pursuant to Rule 1:7-4(b).

In support of the within application, the undersigned counsel will rely upon the annexed Memorandum of Law and oral argument.

DONINI & RAMSEY

ROBERT RAMSEY

Dated: October 21, 2011

**DONINI & RAMSEY
2000 HAMILTON AVENUE
HAMILTON, NEW JERSEY 08619
(609) 396-7979
ATTORNEY FOR DEFENDANT**

| | | |
|----------------------------|----------|---|
| STATE OF NEW JERSEY | : | EWING TOWNSHIP MUNICIPAL COURT MERCER COUNTY |
| Plaintiff | : | SUMMONS NO. EWG123456 |
| vs. | : | QUASI-CRIMINAL ACTION |
| SCOTT A. BROWN | : | |
| Defendant | : | ORDER GRANTING DEFENDANT'S APPLICATION FOR RECONSIDERATION |

THIS MATTER having been opened to the Court upon the application of Donini & Ramsey, Esquires, Robert Ramsey, Esquire, appearing, and the Court having considered the arguments of counsel, and other good cause having been shown;

IT IS ON THIS _____ DAY OF _____, 2011;

ORDERED that Defendants application for reconsideration pursuant to Rule 1:7-4 on the above captioned complaint be and is hereby granted; and

IT IS FURTHER ORDERED that the finding of guilt on the charge of violating N.J.S.A. 2C:29-1 be and hereby is vacated; and

IT IS FURTHER ORDERED that a finding of not guilty be entered on the count of the complaint.

Judge Dredd, J.M.C.

**DONINI & RAMSEY
2000 HAMILTON AVENUE
HAMILTON, NEW JERSEY 08619
(609) 396-7979
ATTORNEY FOR DEFENDANT**

| | | |
|----------------------------|----------|---|
| STATE OF NEW JERSEY | : | EWING TOWNSHIP MUNICIPAL COURT MERCER COUNTY |
| Plaintiff | : | SUMMONS NO. EWG123456 |
| vs. | : | QUASI-CRIMINAL ACTION |
| SCOTT A. BROWN | : | ORDER GRANTING |
| Defendant | : | WITHDRAW OF GUILTY PLEA |

THIS MATTER having been opened to the Court by Donini & Ramsey, Attorneys-at-Law, Robert Ramsey, Esquire, appearing, on behalf of Defendant, Scott A. Brown, and the Court having considered the arguments of counsel and other moving papers submitted and good cause having been shown;

IT IS ON THIS _____ DAY OF _____, 2011;

ORDERED that the guilty plea entered in the above captioned matter through the Ewing Township Violation's Bureau be and hereby is vacated;

IT IS FURTHER ORDERED that the within matter be scheduled in the Ewing Township Municipal Court for further proceedings.

Judge Dredd, J.M.C.

**DONINI & RAMSEY
2000 HAMILTON AVENUE
HAMILTON, NEW JERSEY 08619
(609) 396-7979
ATTORNEY FOR DEFENDANT**

| | | |
|----------------------------|----------|---|
| STATE OF NEW JERSEY | : | EWING TOWNSHIP MUNICIPAL COURT MERCER COUNTY |
| Plaintiff | : | SUMMONS NO. EWG123456 |
| vs. | : | QUASI-CRIMINAL ACTION |
| SCOTT A. BROWN | : | |
| Defendant | : | NOTICE OF MOTION TO VACATE A PLEA PURSUANT TO <u>RULE</u> 7:6-2(b) |

**TO: Peter Pan, Municipal Prosecutor
Ewing Township Municipal Court
2 Jake Garzio Drive
Ewing, New Jersey 0828**

PLEASE TAKE NOTICE that on a date to be set by the Court, the undersigned, counsel for Defendant, Scott A. Brown, will make an application before the Ewing Township Municipal Court for Defendant to withdraw his plea of guilty pursuant to Rule 7:6-2(b).

In support of the within application, Defendant will rely upon the annexed Certification as well as oral argument.

DONINI & RAMSEY

ROBERT RAMSEY

Dated: October 21, 2011

**DONINI & RAMSEY
2000 HAMILTON AVENUE
HAMILTON, NEW JERSEY 08619
(609) 396-7979
ATTORNEY FOR DEFENDANT**

| | | |
|----------------------------|----------|---|
| STATE OF NEW JERSEY | : | EWING TOWNSHIP MUNICIPAL COURT MERCER COUNTY |
| Plaintiff | : | SUMMONS NO. EWG123456 |
| vs. | : | QUASI-CRIMINAL ACTION |
| SCOTT A. BROWN | : | NOTICE OF MOTION TO STAY SENTENCE PURSUANT TO <u>RULE</u> 7:13-2 |
| Defendant | : | |

**TO: Mary Poppins, Court Administrator
Ewing Township Municipal Court
2 Jake Garzio Drive
Ewing, New Jersey 08628**

PLEASE TAKE NOTICE that on a date to be set by the Court, the undersigned counsel will move for an Order staying the imposition of a sixty day jail terms imposed on August 29, 2011 under complaint docket number EWG123456 pending the filing of an appeal of this matter in the Mercer County Superior Court, Law Division.

In support of the within application, the undersigned will rely upon oral argument.

DONINI & RAMSEY

ROBERT RAMSEY

Dated: October 21, 2011

**DONINI & RAMSEY
2000 HAMILTON AVENUE
HAMILTON, NEW JERSEY 08619
(609) 396-7979
ATTORNEY FOR DEFENDANT**

| | | |
|----------------------------|----------|---|
| STATE OF NEW JERSEY | : | EWING TOWNSHIP MUNICIPAL COURT MERCER COUNTY |
| Plaintiff | : | SUMMONS NO. EWG123456 |
| vs. | : | QUASI-CRIMINAL ACTION |
| SCOTT A. BROWN | : | CONSENT |
| Defendant | : | ORDER |

THIS MATTER having been opened to the Court upon the application of Donini & Ramsey, Esquires, Robert Ramsey, Esquire, appearing on behalf of the defendant and the State, and the Court having considered the arguments of counsel and good cause having been shown;

IT IS ON THIS _____ DAY OF _____, 2011;

ORDERED that the custodial term imposed in the Ewing Township Municipal Court is hereby stayed pending resolution of Defendant's appeal; and

IT IS FURTHER ORDERED that Defendant be required to post \$2500.00 full cash bail as a condition of the stay of his sentence.

We hereby consent
to the within order.

Judge Dredd, J.M.C.

Robert Ramsey, Esquire

Peter Pan, Assistant Prosecutor

**DONINI & RAMSEY
2000 HAMILTON AVENUE
HAMILTON, NEW JERSEY 08619
(609) 396-7979
ATTORNEY FOR DEFENDANT**

| | | |
|----------------------------|----------|--|
| STATE OF NEW JERSEY | : | EWING TOWNSHIP MUNICIPAL COURT MERCER COUNTY |
| Plaintiff | : | SUMMONS NO. EWG123456 |
| vs. | : | QUASI-CRIMINAL ACTION |
| SCOTT A. BROWN | : | NOTICE OF MOTION FOR A NEW TRIAL PURSUANT TO <u>RULE 7:10-1</u> |
| Defendant | : | |

PLEASE TAKE NOTICE that on a date to be set by the Court, pursuant to Rule 7:10-1, the undersigned, counsel for Defendant, Scott A. Brown, will make an application before the Ewing Township Municipal Court for a new trial on complaint no. EWG123456.

In support of the within application, the undersigned counsel will rely upon the annexed Memorandum of Law and oral argument.

DONINI & RAMSEY

ROBERT RAMSEY

Dated: October 21, 2011

**DONINI & RAMSEY
2000 HAMILTON AVENUE
HAMILTON, NEW JERSEY 08619
(609) 396-7979
ATTORNEY FOR DEFENDANT**

| | | |
|----------------------------|----------|---|
| STATE OF NEW JERSEY | : | EWING TOWNSHIP MUNICIPAL COURT MERCER COUNTY |
| Plaintiff | : | SUMMONS NO. EWG123456 |
| vs. | : | QUASI-CRIMINAL ACTION |
| SCOTT A. BROWN | : | ORDER |
| Defendant | : | |

THIS MATTER having been opened to the Court upon the application of Donini & Ramsey, Esquires, Robert Ramsey, Esquire, appearing, and the Court having considered the arguments of counsel, and other good cause having been shown;

IT IS ON THIS _____ DAY OF _____, 2011;

ORDERED that Defendants application for a new trial pursuant to Rule 7:10-1 on the above captioned complaint be and is hereby granted.

Judge Dredd, J.M.C.

**DONINI & RAMSEY
2000 HAMILTON AVENUE
HAMILTON, NEW JERSEY 08619
(609) 396-7979
ATTORNEY FOR DEFENDANT**

| | | |
|----------------------------|----------|---|
| STATE OF NEW JERSEY | : | EWING TOWNSHIP MUNICIPAL COURT MERCER COUNTY |
| Plaintiff | : | SUMMONS NO. EWG123456 |
| vs. | : | QUASI-CRIMINAL ACTION |
| SCOTT A. BROWN | : | ORDER GRANTING |
| Defendant | : | POST-CONVICTION RELIEF |

THIS MATTER having been opened to the Court by Donini & Ramsey, Attorneys-at-Law, Robert Ramsey, Esquire, appearing on behalf of the defendant, Scott A. Brown, Peter Pan, Esquire, Municipal Prosecutor, appearing on behalf of the State of New Jersey, and the Court having considered the arguments of counsel, the pleadings and other moving papers submitted and good cause having been shown;

IT IS ON THIS _____ DAY OF _____, 2011;

ORDERED that Defendant's petition for post-conviction relief in the within matter is granted and the plea of guilty and resulting conviction entered under summons no. EWG123456 charging a violation of N.J.S.A. 39:6b-2 be and is hereby vacated;

IT IS FURTHER ORDERED that the within matter be rescheduled in the Ewing Township Municipal Court for further proceedings.

Judge Dredd, J.M.C.

**DONINI & RAMSEY
2000 HAMILTON AVENUE
HAMILTON, NEW JERSEY 08619
(609) 396-7979
ATTORNEY FOR DEFENDANT**

| | | |
|----------------------------|----------|---|
| STATE OF NEW JERSEY | : | EWING TOWNSHIP MUNICIPAL COURT MERCER COUNTY |
| Plaintiff | : | SUMMONS NO. EWG123456 |
| vs. | : | QUASI-CRIMINAL ACTION |
| SCOTT A. BROWN | : | MOTION FOR POST-CONVICTION RELIEF PURSUANT TO <u>RULE</u> 7:10-2 |
| Defendant | : | |

PLEASE TAKE NOTICE that on a date to be set by the Court, the undersigned, counsel for defendant-petitioner, Scott A. Brown, will make an application before the Wing Township Municipal Court for Post-Conviction Relief in connection with the above captioned matters pursuant to Rule 7:10-2.

In support of this application, the defendant-petitioner will rely upon the annexed Memorandum of Law, transcript of prior sentencing proceedings, Verified Petition of defendant-petitioner and oral argument.

The defendant-petitioner will also rely upon certain precedents of the New Jersey Supreme Court which are set forth with more specificity in the attached memorandum of law.

DONINI & RAMSEY

ROBERT RAMSEY

Dated: October 21, 2011

**DONINI & RAMSEY
2000 HAMILTON AVENUE
HAMILTON, NEW JERSEY 08619
(609) 396-7979
ATTORNEY FOR DEFENDANT**

| | | |
|----------------------------|----------|---|
| STATE OF NEW JERSEY | : | EWING TOWNSHIP MUNICIPAL COURT MERCER COUNTY |
| Plaintiff | : | SUMMONS NO. EWG123456 |
| vs. | : | QUASI-CRIMINAL ACTION |
| SCOTT A. BROWN | : | ORDER |
| Defendant | : | |

This matter having been opened to the court upon the application of Donini & Ramsey, Attorneys at Law, Robert Ramsey, Esquire appearing, and the Court having considered the arguments of counsel and other good cause having been shown;

IT IS ON THIS ____ DAY OF ____, 2011;

ORDERED that Defendant's conviction for a violation of N.J.S.A. 39:4-50(a), entered in this court on March 24, 1983 shall not be used to enhance the custodial aspect of any future conviction for a violation of N.J.S.A. 39:4-50(a).

Judge Dredd, J.M.C.

**DONINI & RAMSEY
2000 HAMILTON AVENUE
HAMILTON, NEW JERSEY 08619
(609) 396-7979
ATTORNEY FOR DEFENDANT**

| | | |
|----------------------------|----------|--|
| STATE OF NEW JERSEY | : | EWING TOWNSHIP MUNICIPAL COURT MERCER COUNTY |
| Plaintiff | : | SUMMONS NO. EWG123456 |
| vs. | : | QUASI-CRIMINAL ACTION |
| SCOTT A. BROWN | : | NOTION OF MOTION FOR RELIEF FROM A PRIOR CONVICTION PURSUANT TO <u>RULE</u> 7:10-2(g) |
| Defendant | : | |

PLEASE TAKE NOTICE that on a date to be set by the Court, pursuant to Rule 7:9-4(a), the undersigned, counsel for Defendant, Scott A. Brown, will make an application before the Ewing Township Municipal Court for relief from a prior conviction pursuant to Rule 7:10-2(g).

In support of the within application, the undersigned counsel will rely upon the annexed Memorandum of Law and oral argument.

DONINI & RAMSEY

ROBERT RAMSEY

Dated: October 21, 2011

**DONINI & RAMSEY
2000 HAMILTON AVENUE
HAMILTON, NEW JERSEY 08619
(609) 396-7979
ATTORNEY FOR DEFENDANT**

| | | |
|----------------------------|----------|--|
| STATE OF NEW JERSEY | : | EWING TOWNSHIP MUNICIPAL COURT MERCER COUNTY |
| Plaintiff | : | SUMMONS NO. EWG123456 |
| vs. | : | QUASI-CRIMINAL ACTION |
| SCOTT A. BROWN | : | NOTICE OF MOTION TO AMEND FINDINGS PURSUANT TO <u>RULE</u> 1:7-4(B) |
| Defendant | : | |

TO: Honorable Judge Dredd, J.M.C.
Ewing Township Municipal Court
2 Jake Garzio Drive
Ewing, New Jersey 08628

Peter Pan, Municipal Prosecutor
Ewing Township Municipal Court
2 Jake Garzio Drive
Ewing, New Jersey 08628

Mary Poppins, Court Administrator
Ewing Township Municipal Court
2 Jake Garzio Drive
Ewing, New Jersey 08628

PLEASE TAKE NOTICE that on a date to be set by the court the undersigned counsel will move for an Order acquitting the defendant of the a violation of N.J.S.A. 2C:36-2 entered by the Court on September 15, 2011.

In support of the within application, the undersigned counsel shall rely upon the annexed Certification of Defendant, trial transcripts and oral argument.

DONINI & RAMSEY

ROBERT RAMSEY

Dated: October 21, 2011

**DONINI & RAMSEY
2000 HAMILTON AVENUE
HAMILTON, NEW JERSEY 08619
(609) 396-7979
ATTORNEY FOR DEFENDANT**

| | | |
|----------------------------|----------|---|
| STATE OF NEW JERSEY | : | EWING TOWNSHIP MUNICIPAL COURT MERCER COUNTY |
| Plaintiff | : | SUMMONS NO. EWG123456 |
| vs. | : | QUASI-CRIMINAL ACTION |
| SCOTT A. BROWN | : | ORDER |
| Defendant | : | |

THIS MATTER HAVING BEEN opened to the Court upon the application of Donini & Ramsey, Esquires, Robert Ramsey, Esquire, appearing, and the Court having considered the arguments of counsel and other good cause having been shown;

IT IS ON THIS _____ DAY OF _____, 2011;

ORDERED that the findings of the Court taken on September 15, 2011 are hereby amended to reflect that the State has failed to prove that the underlying offense took place within the territorial jurisdiction of this Court; and

IT IS FURHTER ORDERED that the underlying complaint be and hereby is dismissed and a finding of not guilty as to the disposition on the case.

Judge Dredd, J.M.C.

**DONINI & RAMSEY
2000 HAMILTON AVENUE
HAMILTON, NEW JERSEY 08619
(609) 396-7979
ATTORNEY FOR DEFENDANT**

| | | |
|----------------------------|----------|---|
| STATE OF NEW JERSEY | : | EWING TOWNSHIP MUNICIPAL COURT MERCER COUNTY |
| Plaintiff | : | SUMMONS NO. EWG123456 |
| vs. | : | QUASI-CRIMINAL ACTION |
| SCOTT A. BROWN | : | NOTICE OF MOTION TO DISQUALIFY PURSUANT TO <u>RULE</u> 1:12-1(F) |
| Defendant | : | |

TO: Honorable Judge Dredd, J.M.C.
Ewing Township Municipal Court
2 Jake Garzio Drive
Ewing, New Jersey 08628

Peter Pan, Municipal Prosecutor
Ewing Township Municipal Court
2 Jake Garzio Drive
Ewing, New Jersey 08628

Mary Poppins, Court Administrator
Ewing Township Municipal Court
2 Jake Garzio Drive
Ewing, New Jersey 08628

PLEASE TAKE NOTICE that on a date to be set by the court the undersigned counsel will move for an Order pursuant to Rule 1:12-1(f) disqualifying the municipal court from hearing the within matter and for a transfer of this matter to another jurisdiction pursuant to Rule 7:8-2.

In support of the within application, the undersigned counsel shall rely upon the annexed Certification of Counsel together with oral argument.

DONINI & RAMSEY

ROBERT RAMSEY

Dated: October 21, 2011

**DONINI & RAMSEY
2000 HAMILTON AVENUE
HAMILTON, NEW JERSEY 08619
(609) 396-7979
ATTORNEY FOR DEFENDANT**

| | | |
|----------------------------|----------|---|
| STATE OF NEW JERSEY | : | EWING TOWNSHIP MUNICIPAL COURT MERCER COUNTY |
| Plaintiff | : | SUMMONS NO. EWG123456 |
| vs. | : | QUASI-CRIMINAL ACTION |
| SCOTT A. BROWN | : | ORDER |
| Defendant | : | |

THIS MATTER HAVING BEEN opened to the Court upon the application of Donini & Ramsey, Esquires, Robert Ramsey, Esquire, appearing, and the Court having considered the arguments of counsel and other good cause having been shown;

IT IS ON THIS _____ DAY OF _____, 2011;

ORDERED that the municipal court is disqualified from hearing the within matter; and

IT IS FURHTER ORDERED that the within matter be transferred to another jurisdiction pursuant to Rule 7:8-2 for disposition.

Judge Dredd, J.M.C.

DONINI & RAMSEY
2000 HAMILTON AVENUE
HAMILTON, NEW JERSEY 08619
(609) 396-7979
ATTORNEY FOR DEFENDANT

| | | |
|----------------------------|----------|--|
| STATE OF NEW JERSEY | : | SUPERIOR COURT OF NEW JERSEY |
| | | MERCER COUNTY |
| Plaintiff | : | DOCKET NOS. EWG123456 & LLL123456 |
| vs. | : | QUASI-CRIMINAL ACTION |
| SCOTT A. BROWN | : | NOTICE OF MOTION TO CONSOLIDATE |
| Defendant | : | PURSUANT TO <u>RULE</u> 7:8-4 |

TO: Honorable Boss Lady, A.J.S.C.
Mercer County Superior Court
P.O. Box 8068
Trenton, New Jersey 08650

PLEASE TAKE NOTICE that on a date to be set by the court the undersigned counsel will move for an Order consolidating docket no. EWG123456 charging a violation of N.J.S.A. 2C:12-1a1 currently pending in the Ewing Township Municipal Court with docket no. LLL123456 charging a violation of N.J.S.A. 2C:33-4 now pending in the City of Trenton Municipal Court.

In support of the within application, the undersigned counsel shall rely upon the annexed Certification of Counsel together with oral argument.

DONINI & RAMSEY

ROBERT RAMSEY

Dated: October 21, 2011

**DONINI & RAMSEY
2000 HAMILTON AVENUE
HAMILTON, NEW JERSEY 08619
(609) 396-7979
ATTORNEY FOR DEFENDANT**

| | | |
|----------------------------|----------|---|
| STATE OF NEW JERSEY | : | SUPERIOR COURT OF NEW JERSEY MERCER COUNTY |
| Plaintiff | : | DOCKET NOS. EWG123456 & LLL123456 |
| vs. | : | QUASI-CRIMINAL ACTION |
| SCOTT A. BROWN | : | ORDER |
| Defendant | : | |

THIS MATTER HAVING BEEN opened to the Court upon the application of Donini & Ramsey, Esquires, Robert Ramsey, Esquire, appearing, and the Court having considered the arguments of counsel and other good cause having been shown;

IT IS ON THIS _____ DAY OF _____, 2011;

ORDERED that the above captioned matters be and hereby are consolidated for trial in the Ewing Township Municipal Court; and

IT IS FURHTER ORDERED that this Order be served upon the Trenton Municipal Court so that the cases can be scheduled for disposition.

Boss Lady, A.J.S.C.

**DONINI & RAMSEY
2000 HAMILTON AVENUE
HAMILTON, NEW JERSEY 08619
(609) 396-7979
ATTORNEY FOR DEFENDANT**

| | | |
|----------------------------|----------|---|
| STATE OF NEW JERSEY | : | EWING TOWNSHIP MUNICIPAL COURT MERCER COUNTY |
| Plaintiff | : | SUMMONS NO. EWG123456 & EWG654321 |
| vs. | : | QUASI-CRIMINAL ACTION |
| SCOTT A. BROWN | : | NOTICE OF MOTION FOR JOINT |
| DOMINICK S. BROWN | : | REPRESENTATION PURSUANT TO <u>RULE</u> 7:7-10 |
| Defendants | : | |

TO: Honorable Judge Dredd, J.M.C.
Ewing Township Municipal Court
2 Jake Garzio Drive
Ewing, New Jersey 08628

Peter Pan, Municipal Prosecutor
Ewing Township Municipal Court
2 Jake Garzio Drive
Ewing, New Jersey 08628

Mary Poppins, Court Administrator
Ewing Township Municipal Court
2 Jake Garzio Drive
Ewing, New Jersey 08628

PLEASE TAKE NOTICE that on a date to be set by the court the undersigned counsel will move for an Order permitting him to represent the above captioned Defendants in court simultaneously in this matter.

In support of the within application, the undersigned counsel shall rely upon testimony taken in open court from the two defendants together with oral argument.

DONINI & RAMSEY

ROBERT RAMSEY

Dated: October 21, 2011

**DONINI & RAMSEY
2000 HAMILTON AVENUE
HAMILTON, NEW JERSEY 08619
(609) 396-7979
ATTORNEY FOR DEFENDANT**

| | | |
|----------------------------|----------|---|
| STATE OF NEW JERSEY | : | EWING TOWNSHIP MUNICIPAL COURT MERCER COUNTY |
| Plaintiff | : | SUMMONS NO. EWG123456 & EWG654321 |
| vs. | : | QUASI-CRIMINAL ACTION |
| SCOTT A. BROWN | : | ORDER |
| DOMINICK S. BROWN | : | |
| Defendants | : | |

THIS MATTER HAVING BEEN opened to the Court upon the application of Donini & Ramsey, Esquires, Robert Ramsey, Esquire, appearing, and the Court having considered the arguments of counsel and other good cause having been shown;

IT IS ON THIS _____ DAY OF _____, 2011;

ORDERED that the undersigned counsel be permitted to represent the above captioned Defendants in court simultaneously in this matter.

Judge Dredd, J.M.C.

**DONINI & RAMSEY
2000 HAMILTON AVENUE
HAMILTON, NEW JERSEY 08619
(609) 396-7979
ATTORNEY FOR DEFENDANT**

| | | |
|----------------------------|----------|--|
| STATE OF NEW JERSEY | : | SUPERIOR COURT OF NEW JERSEY MERCER COUNTY – FAMILY PART |
| Plaintiff | : | DOCKET NOS. EWG123456 & LLL123456 |
| vs. | : | QUASI-CRIMINAL ACTION |
| SCOTT A. BROWN | : | NOTICE OF MOTION TO TRANSFER TO FAMILY PART PURSUANT TO <u>RULE</u> 7:8-6 and <u>RULE</u> 5:1-3(B)(2) |
| Defendant | : | |

PLEASE TAKE NOTICE that on a date to be set by the court the undersigned counsel will move for an Order transferring docket no. EWG123456 charging a violation of N.J.S.A. 2C:12-1a1 currently pending in the Ewing Township Municipal Court to the Mercer County Superior Court, Family Part.

In support of the within application, the undersigned counsel shall rely upon the annexed Certification of Counsel together with oral argument.

DONINI & RAMSEY

ROBERT RAMSEY

Dated: October 21, 2011

**DONINI & RAMSEY
2000 HAMILTON AVENUE
HAMILTON, NEW JERSEY 08619
(609) 396-7979
ATTORNEY FOR DEFENDANT**

| | | |
|----------------------------|----------|---|
| STATE OF NEW JERSEY | : | SUPERIOR COURT OF NEW JERSEY MERCER COUNTY – FAMILY PART |
| Plaintiff | : | DOCKET NOS. EWG123456 & LLL123456 |
| vs. | : | QUASI-CRIMINAL ACTION |
| SCOTT A. BROWN | : | ORDER |
| Defendant | : | |

THIS MATTER HAVING BEEN opened to the Court upon the application of Donini & Ramsey, Esquires, Robert Ramsey, Esquire, appearing, and the Court having considered the arguments of counsel and other good cause having been shown;

IT IS ON THIS _____ DAY OF _____, 2011;

ORDERED that the above captioned matter be transferred to the Mercer County Superior Court, Family Part.

Boss Lady, A.J.S.C.

**DONINI & RAMSEY
2000 HAMILTON AVENUE
HAMILTON, NEW JERSEY 08619
(609) 396-7979
ATTORNEY FOR DEFENDANT**

| | | |
|----------------------------|----------|--|
| STATE OF NEW JERSEY | : | EWING TOWNSHIP MUNICIPAL COURT MERCER COUNTY |
| Plaintiff | : | SUMMONS NO. EWG123456 |
| vs. | : | QUASI-CRIMINAL ACTION |
| SCOTT A. BROWN | : | NOTICE OF MOTION TO EXCLUDE A CONFESSION PURSUANT TO <u>RULE</u> 7:7- 5(B) and <u>N.J.R.E.</u> 104(c) |
| Defendant | : | |

TO: Peter Pan, Municipal Prosecutor
Ewing Township Municipal Court
2 Jake Garzio Drive
Ewing, New Jersey 08628

PLEASE TAKE NOTICE that on a date to be set by the Court the undersigned counsel will move for an Order barring the State from using the purported confession of Defendant..

In support of the within application, the undersigned counsel will rely upon oral argument and the results of a hearing conducted pursuant to N.J.R.E. 104(c).

DONINI & RAMSEY

ROBERT RAMSEY

Dated: October 21, 2011

**DONINI & RAMSEY
2000 HAMILTON AVENUE
HAMILTON, NEW JERSEY 08619
(609) 396-7979
ATTORNEY FOR DEFENDANT**

| | | |
|----------------------------|----------|---|
| STATE OF NEW JERSEY | : | EWING TOWNSHIP MUNICIPAL COURT MERCER COUNTY |
| Plaintiff | : | SUMMONS NO. EWG123456 |
| vs. | : | QUASI-CRIMINAL ACTION |
| SCOTT A. BROWN | : | ORDER |
| Defendant | : | |

THIS MATTER having been opened to the Court upon the application of Donini & Ramsey, Esquires, Robert Ramsey, Esquire, appearing, and the Court having considered the arguments of counsel, and the Court having determined that Defendant's confession was not voluntarily made and other good cause having been shown;

IT IS ON THIS _____ DAY OF _____, 2011;

ORDERED that the purported confession of Defendant be and herby is suppressed.

Judge Dredd, J.M.C.

**DONINI & RAMSEY
2000 HAMILTON AVENUE
HAMILTON, NEW JERSEY 08619
(609) 396-7979
ATTORNEY FOR DEFENDANT**

| | | |
|----------------------------|----------|---|
| STATE OF NEW JERSEY | : | EWING TOWNSHIP MUNICIPAL COURT MERCER COUNTY |
| Plaintiff | : | SUMMONS NO. EWG123456 |
| vs. | : | QUASI-CRIMINAL ACTION |
| SCOTT A. BROWN | : | NOTICE OF MOTION FOR A PROTECTIVE ORDER PURSUANT TO <u>RULE</u> 7:7-7(f) |
| Defendant | : | |

TO: Peter Pan, Municipal Prosecutor
Ewing Township Municipal Court
2 Jake Garzio Drive
Ewing, New Jersey 08628

PLEASE TAKE NOTICE that on a date to be set by the Court the undersigned counsel will move for an Order sealing the address and telephone number of witness M.H.

In support of the within application, the undersigned counsel will rely upon the annexed Certification of Counsel and oral argument.

DONINI & RAMSEY

ROBERT RAMSEY

Dated: October 21, 2011

**DONINI & RAMSEY
2000 HAMILTON AVENUE
HAMILTON, NEW JERSEY 08619
(609) 396-7979
ATTORNEY FOR DEFENDANT**

| | | |
|----------------------------|----------|---|
| STATE OF NEW JERSEY | : | EWING TOWNSHIP MUNICIPAL COURT MERCER COUNTY |
| Plaintiff | : | SUMMONS NO. EWG123456 |
| vs. | : | QUASI-CRIMINAL ACTION |
| SCOTT A. BROWN | : | ORDER |
| Defendant | : | |

THIS MATTER having been opened to the Court upon the application of Donini & Ramsey, Esquires, Robert Ramsey, Esquire, appearing, and the Court having considered the arguments of counsel and other good cause having been shown;

IT IS ON THIS _____ DAY OF _____, 2011;

ORDERED that the location, telephone number and identity of witness M.H. be and are hereby sealed and may not be revealed by any party to this action.

Judge Dredd, J.M.C.

**DONINI & RAMSEY
2000 HAMILTON AVENUE
HAMILTON, NEW JERSEY 08619
(609) 396-7979
ATTORNEY FOR DEFENDANT**

| | | |
|----------------------------|----------|--|
| STATE OF NEW JERSEY | : | EWING TOWNSHIP MUNICIPAL COURT MERCER COUNTY |
| Plaintiff | : | SUMMONS NO. EWG123456 |
| vs. | : | QUASI-CRIMINAL ACTION |
| SCOTT A. BROWN | : | NOTICE OF MOTION FOR REDUCTION DISCOVERY COSTS PURSUANT TO <u>RULE</u> 7:7-7(e) |
| Defendant | : | |

TO: Peter Pan, Municipal Prosecutor
Ewing Township Municipal Court
2 Jake Garzio Drive
Ewing, New Jersey 08628

PLEASE TAKE NOTICE that on a date to be set by the Court the undersigned counsel will move for an Order amending the costs of discovery in this matter to an amount that conforms to the fee schedule set forth under N.J.S.A. 39:4-131.

In support of the within application, the undersigned counsel will rely upon the annexed Certification of Counsel and oral argument.

DONINI & RAMSEY

ROBERT RAMSEY

Dated: October 21, 2011

**DONINI & RAMSEY
2000 HAMILTON AVENUE
HAMILTON, NEW JERSEY 08619
(609) 396-7979
ATTORNEY FOR DEFENDANT**

| | | |
|----------------------------|----------|---|
| STATE OF NEW JERSEY | : | EWING TOWNSHIP MUNICIPAL COURT MERCER COUNTY |
| Plaintiff | : | SUMMONS NO. EWG123456 |
| vs. | : | QUASI-CRIMINAL ACTION |
| SCOTT A. BROWN | : | ORDER |
| Defendant | : | |

THIS MATTER having been opened to the Court upon the application of Donini & Ramsey, Esquires, Robert Ramsey, Esquire, appearing, and the Court having considered the arguments of counsel and other good cause having been shown;

IT IS ON THIS _____ DAY OF _____, 2011;

ORDERED that the total fee for discovery in the above captioned matter shall not exceed \$7.80 which amount shall be paid forthwith by the defendant to the records clerk of the police department.

Judge Dredd, J.M.C.

**DONINI & RAMSEY
2000 HAMILTON AVENUE
HAMILTON, NEW JERSEY 08619
(609) 396-7979
ATTORNEY FOR DEFENDANT**

STATE OF NEW JERSEY : **EWING TOWNSHIP MUNICIPAL COURT
MERCER COUNTY**
Plaintiff :
vs. : **SUMMONS NO. EWG123456**
: **QUASI-CRIMINAL ACTION**
SCOTT A. BROWN : **NOTICE OF MOTION TO RECONSIDER
FACTUAL FINDINGS PURSUANT TO RULE 1:7-4(b)**

TO: Honorable Judge Dredd, J.M.C.
Ewing Township Municipal Court
2 Jake Garzio Drive
Ewing, New Jersey 08628

Peter Pan, Municipal Prosecutor
Ewing Township Municipal Court
2 Jake Garzio Drive
Ewing, New Jersey 08628

Mary Poppins, Court Administrator
Ewing Township Municipal Court
2 Jake Garzio Drive
Ewing, New Jersey 08628

PLEASE TAKE NOTICE that on a date to be set by the Court, the undersigned, counsel for Defendant, Scott A. Brown, will make an application before the Ewing Township Municipal Court to amend the factual findings made in the above captioned matter following trial based upon the issue of jurisdiction of the Court.

In support of the within application, the undersigned counsel will rely upon the annexed Memorandum of Law and oral argument.

DONINI & RAMSEY

ROBERT RAMSEY

Dated: October 21, 2011

**DONINI & RAMSEY
2000 HAMILTON AVENUE
HAMILTON, NEW JERSEY 08619
(609) 396-7979
ATTORNEY FOR DEFENDANT**

| | | |
|----------------------------|----------|---|
| STATE OF NEW JERSEY | : | EWING TOWNSHIP MUNICIPAL COURT MERCER COUNTY |
| Plaintiff | : | SUMMONS NO. EWG123456 |
| vs. | : | QUASI-CRIMINAL ACTION |
| SCOTT A. BROWN | : | |
| Defendant | : | ORDER |

THIS MATTER having been opened to the Court upon the application of Donini & Ramsey, Esquires, Robert Ramsey, Esquire, appearing, and the Court having considered the arguments of counsel, and other good cause having been shown;

IT IS ON THIS _____ DAY OF _____, 2011;

ORDERED that the factual findings made by the Court are hereby amended to reflect that the Court is without territorial jurisdiction to try this matter; and

IT IS FURTHER ORDERD that the above captioned complaint be and hereby is dismissed.

Judge Dredd, J.M.C.

Garden State CLE Presents:

**Motion Practice in
Municipal Court
(with forms)**



Lesson Plan

Table of Contents

| | |
|---|-----------|
| <u>Part I – Introduction</u> | 3 |
| <u>Part II – Pre-trial motions</u> | 7 |
| A. Dismissal of complaint | 7 |
| B. <i>Storm</i> applications | 9 |
| C. Disqualification of a judge | 10 |
| D. Consolidation in one jurisdiction | 11 |
| E. Transfer to Family Part | 12 |
| F. Joint Representation | 13 |
| G. Motions <i>in Limine</i> | 14 |
| H. Exclude a confession or admission | 15 |
| I. Quash a subpoena | 16 |
| J. Reconsider terms & conditions of bail | 17 |
| K. Discovery –protective orders | 18 |
| L. Waiver of forfeiture of public office | 19 |
| M. Reduction in discovery costs | 20 |
| N. Suppress evidence | 21 |
| <u>Part III – Post-trial motions</u> | 23 |
| A. Reconsideration of sentence | 23 |
| B. Reconsideration of factual findings | 24 |
| C. Vacate plea | 25 |
| D. Stay of sentence | 26 |
| E. New trial | 27 |
| F. Post-conviction relief | 28 |
| G. <i>Laurick</i> applications | 34 |

Motion Practice in Municipal Court

I. Introduction

1. Rule 1:6 does not apply to municipal courts.

1:6-1. Applicability of Rule

Rule 1:6 shall apply to all trial courts, except the municipal courts and except as otherwise provided by R. 3:26-2(d) (motions for bail reductions), R. 5:5-4 (motions in civil family actions), and R. 6:3-3 (motions in the Special Civil Part).

2. Motions made in municipal court

7:7-2. Motions

- **(a) How Made.** Except as otherwise provided by R. 7:5-2 (motion to suppress), motions in the municipal court and answers to motions, if any, shall be made orally, unless the court directs that the motion and answer be in writing. Oral testimony or affidavits in support of or in opposition to the motion may be required by the court in its discretion.
- **(b) Hearings.** A motion made before trial shall be determined before trial unless the court, in the interest of justice, directs that it be heard during or after trial.

Note:

Technically, unless otherwise ordered by the Court, all motions and answers, except motions to suppress (Rule 7:5-2) and post-conviction relief (see requirements of Rule 7:10-2(f)), in municipal court shall be made orally.

**3. Modification of Rule 7:7-2 through case law.
State v. Holup, 53 N.J. Super. 320, 326 (App. Div.
1992)**

Lastly, we are constrained to comment on the effect of [R. 7:7-2], which permits motions in the municipal courts to be made “orally and informally.” As our municipal courts mature and become responsible for the disposition of more complex, more serious in terms of penal consequence and more communally important cases, more formal practices become essential. We understand that much of the subject matter in controversy in the municipal courts is minor and, in such cases, informal practices should continue, but in the more significant cases, a more careful, thorough procedure is warranted. There is a recognizable difference in the analysis of the discovery in a drunk driving case as compared to one involving a stop light violation. The mere fact that the Court Rule allows informality does not give broad license to counsel. Motions and supporting documents assist the municipal court judge in making a fair and considered decision. A motion limiting the time for completion of discovery in this case would have ensured notice to the prosecutor and avoided the waste of time by defendant, the expert witness and defense counsel.

4. Relaxation of Rules as a basis of motion

1:1-2. Construction and Relaxation;

(a) The rules in Part I through Part VIII, inclusive, shall be construed to secure a just determination, simplicity in procedure, fairness in administration and the elimination of unjustifiable expense and delay. Unless otherwise stated, any rule may be relaxed or dispensed with by the court in which the action is pending if adherence to it would result in an injustice.

Note Examples:

Plea by mail – Rule 7:12-3

Presence of Defendant – Rule 7:8-7(a)

II. Pre-trial Motions

A. Motions to Dismiss – In General

1.) 7:7-1. Pleadings; Objections

Pleadings in municipal court actions shall consist only of the complaint. A defense or objection capable of determination without trial of the general issue shall be raised before trial by motion to dismiss or for other appropriate relief, except that a motion to dismiss based upon lack of jurisdiction or the unconstitutionality of a municipal ordinance may be made at any time.

2.) 7:8-5. Dismissal

If the complaint is not moved on the day for trial, the court may direct that it be heard on a specified return date and a notice thereof be served on the complaining witness, all defendants and all other known witnesses. If the complaint is not moved on that date, the court may order the complaint dismissed. A complaint may also be dismissed by the court for good cause at any time on its own motion, on the motion of the State, county or municipality or on defendant's motion. On dismissal, any warrant issued shall be recalled, and the matter shall not be reopened on the same complaint except to correct a manifest injustice.

Note:

Rule 7:8-5 provides general authority that can be used in any motion to dismiss a complaint in municipal court, including an oral motion during trial to dismiss at the end of the State's case (State v. Reyes, 50 N.J. 454 (1967) see Rule 3:18-1), a discovery violation (Rule 7:7-7(h)) or dismissals as part of a plea and sentence agreement. (Rule 7:6-2(d) and Guideline 2(a))

B. Motions to Appear on Behalf of the State of New Jersey (*Storm Applications/Certifications – State v. Storm*, 141 N.J. 245 (1995)).

7:8-7. Appearances; Exclusion of the Public

- **(b) Appearance for the Prosecution. The municipal prosecutor, municipal attorney, Attorney General, county prosecutor, or county counsel, as the case may be, may appear in any municipal court in any action on behalf of the State and conduct the prosecution either on the court's request or on the request of the respective public official. The court may also, in its discretion and in the interest of justice, direct the municipal prosecutor to represent the State. The court may permit an attorney to appear as a private prosecutor to represent the State in cases involving cross-complaints. Such private prosecutors may be permitted to appear on behalf of the State only if the court has first reviewed the private prosecutor's motion to so appear and an accompanying certification submitted on a form approved by the Administrative Director of the Courts. The court may grant the private prosecutor's application to appear if it is satisfied that a potential for conflict exists for the municipal prosecutor due to the nature of the charges set forth in the cross-complaints. The court shall place such a finding on the record.**

c. Motions to Disqualify a Judge

1. Rule 1:12-1

1:12-1. Cause for Disqualification; On the Court's Motion

The judge of any court shall be disqualified on the court's own motion and shall not sit in any matter, if the judge

- (a) is by blood or marriage the second cousin of or is more closely related to any party to the action;**
- (b) is by blood or marriage the first cousin of or is more closely related to any attorney in the action. This proscription shall extend to the partners, employers, employees or office associates of any such attorney except where the Chief Justice for good cause otherwise permits;**
- (c) has been attorney of record or counsel in the action; or**
- (d) has given an opinion upon a matter in question in the action; or**
- (e) is interested in the event of the action; or**
- (f) when there is any other reason which might preclude a fair and unbiased hearing and judgment, or which might reasonably lead counsel or the parties to believe so.**

Notes:

Canon 2(A) N.J. Code of Judicial Conduct

DeNike v. Cupo, 196 N.J. 502 (2008) (in general)

State v. McCabe, 201 N.J. 34 (2010) (Municipal Court)

Transfer according to Rule 7:8-2(b) and Rule 1:12-3(a)

D. Motion to Consolidate – Rule 7:8-4

7:8-4. Trial of Complaints Together

The court may order two or more complaints to be tried together if the offenses arose out of the same facts and circumstances, regardless of the number of defendants. In all other matters, the court may consolidate complaints for trial with the consent of the persons charged. A party seeking consolidation of Complaints originating in two or more municipalities may be consolidated for trial only with the approval of the appropriate Assignment Judge, who shall designate the municipal court in which trial is to proceed. A party seeking consolidation of complaints originating in different municipalities shall file a written motion for that relief directly with the Assignment Judge.

E. Motion to Transfer to Family Part – Rule 7:8-6

7:8-6. Transfer to the Chancery Division, Family Part

An action pending in a municipal court may be transferred to the Superior Court, Chancery Division, Family Part pursuant to R. 5:1-2(c)(3) and R. 5:1-3(b)(2).

Rule 5:1-2(c)(3)

5:1-2. Actions Cognizable

The following actions shall be cognizable in the Family Part:

(3) Any non-indictable offense or violation pending in the municipal court and any indictable offense within the trial jurisdiction of the municipal court may be transferred for trial and disposition to the Family Part pursuant to R. 5:1-3(b) provided that the gravamen of the offense or violation arises out of a family or family-type relationship between the defendant and a victim.

-----Rule 5:1-3(b)(2)

5:1-3. Transfer of Actions to and From the Family Part

(b) Criminal and Quasi-Criminal Actions.

(2) The transfer of proceedings pending in a municipal court shall be on motion made by the defendant, the complaining witness or the municipal prosecutor. If there is a pending Family Part matter the motion shall be made to the judge assigned to that case and if no judge has been assigned, then to the presiding judge of that vicinage. If there is no pending Family Part matter, then the motion should be made to the presiding judge of the Family Part where the municipal court is located.

F. Motion to Provide Joint Representation – Rule 7:7-10

7:7-10. Joint Representation

No attorney or law firm shall enter an appearance for or represent more than one defendant in a multi-defendant trial or enter a plea for any defendant without first securing the court's permission by motion made in the presence of the defendants who seek joint representation. The motion shall be made as early as practicable in the proceedings in order to avoid delay of the trial. For good cause shown, the court may allow the motion to be brought at any time.

Notes:

Application should be made on the record, with both defendants being placed under oath. As a result of questioning from the attorney making the motion, each defendant should independently acknowledge the current lack of a conflict and the option of retaining independent counsel should a conflict arise.

G.Motion *in limine* – Rule 7:7-1 (*Holup* Orders)

7:7-1. Pleadings; Objections

Pleadings in municipal court actions shall consist only of the complaint. A defense or objection capable of determination without trial of the general issue shall be raised before trial by motion to dismiss or for other appropriate relief, except that a motion to dismiss based upon lack of jurisdiction or the unconstitutionality of a municipal ordinance may be made at any time.

Notes and examples:

In Alcotest Cases – “The foundational documents that we conclude need to be entered into evidence therefore are few. They are: (1) the most recent calibration report prior to a defendant's test, with part I-control tests, part II-linearity tests, and the credentials of the coordinator who performed the calibration; (2) the most recent new standard solution report prior to a defendant's test; and (3) the certificate of analysis of the 0.10 simulator solution used in a defendant's control tests. Absent a pre-trial challenge to the admissibility of the AIR based on one of the other foundational documents produced in discovery, we perceive of no reason to require that they be made a part of the record routinely.” *State v. Chun*, 194 N.J. 54, 145 (2008).

For discovery issues: Rule 7:7-7(h) and *State v. Holup*, 53 N.J. Super. 320 (App. Div. 1992).

Undue Prejudice – N.J.R.E. 403

Confessions & Admission – NJRE 104(c)

H.Motion to exclude a confession/admission/suspect identification– Rule 7:7-5(b)

7:7-5. Pretrial Procedure

- (b) Pretrial Hearings. **The court may conduct hearings to resolve issues relating to the admissibility of statements by defendant, pretrial identifications of defendant, and sound recordings at any time prior to trial. Upon a showing of good cause, hearings as to the admissibility of other evidence may also be conducted at any time prior to trial.**

Confessions & Admission – NJRE 104(c)

**I. Motion to quash – Rule 7:7-8(h) (Subpoena);
Rule 7:7-8(h)**

(h) Motion to Quash. The court, on motion made prior to the scheduled court date, may quash or modify a subpoena to testify or a subpoena to produce writings or electronically stored information if compliance would be unreasonable, oppressive or not in compliance with the procedures required under this rule.

Notes & Examples:

For motions to quash a summons and dismiss the associated complaint, use Rule 7:8-5 and Rule 7:7-1.

Process served out of statute of limitations – State v. Buczkowski, 395 N.J. Super. 40 (App. Div. 2007).

Process issued without a finding of probable cause where otherwise required by the Rules of Court.

J. Motion to reconsider bail – Rule 7:4-2(b)

- **(b) Bail Revisions.** A municipal court judge may modify bail or any other condition of pre-trial release on any non-indictable offense at any time during the course of the municipal court proceedings.

Note: Can also be used to amend other conditions of bail, especially in a domestic violence case.

K. Protective Orders – Rule 7:7:7(f)

(f) Protective Orders.

(1) Grounds. **Upon motion and for good cause shown, the court may at any time order that the discovery or inspection, copying or photographing sought pursuant to this rule be denied, restricted, or deferred or make such other order as is appropriate. In determining the motion, the court may consider the following: protection of witnesses and others from physical harm, threats of harm, bribes, economic reprisals and other intimidation; maintenance of such secrecy regarding informants as is required for effective investigation of criminal activity; protection of confidential relationships and privileges recognized by law; and any other relevant considerations.**

(2) Procedures. **The court may permit the showing of good cause to be made, in whole or in part, in the form of a written statement to be inspected by the court alone. If the court enters a protective order, the entire text of the statement shall be sealed and preserved in the court's records, to be made available only to the appellate court in the event of an appeal.**

L.Waiver of Forfeiture of Public Office – N.J.S.A. 2C:51-2(e)

Any forfeiture or disqualification under subsection a., b. or d. which is based upon a conviction of a disorderly persons or petty disorderly persons offense may be waived by the court upon application of the county prosecutor or the Attorney General and for good cause shown.

Case Law:

Flagg v. Essex County, 171 N.J. 561 (2002)

State v. Rone, 410 N.J. Super. 589 (App. Div. 2009)

Notes & examples – The critical role of defense counsel in this process.

M..Motion for reduction in discovery costs – Rule 7:7-7(e)

(d) Documents Not Subject to Discovery. ...no change

(e) Reasonableness of Cost. Upon motion of any party, the court may consider the reasonableness of the cost of discovery ordered by the court to be disseminated to the parties. If the court finds that the cost charged for discovery is unreasonable, the court may order the cost reduced or make such other order as is appropriate.

(f) (G) Protective Orders ...no change to text

N.Motion to suppress evidence – Rule 7:5-2(a)

7:5-2. Motion to Suppress Evidence

- **(a) Jurisdiction.** The municipal court shall entertain motions to suppress evidence seized without a warrant in matters within its trial jurisdiction on notice to the prosecuting attorney and, if the county prosecutor is not the prosecuting attorney, also to the county prosecutor. A motion to suppress evidence seized pursuant to a warrant and motions to suppress evidence seized without a warrant, but in matters beyond the trial jurisdiction of the municipal court, shall be made and heard in the Superior Court.
-
- **(b) Procedure.** Written briefs in support of and opposition to the motion to suppress shall be filed only in the discretion of the judge, who shall determine the briefing schedule, if briefs are permitted. All motions to suppress shall be heard before the start of the trial.
-
-
- **(c) Order; Stay.**
 - **(1) Order Granting Suppression.** An order granting a motion to suppress evidence shall be entered immediately upon decision of the motion. Within ten days after its entry, the municipal court administrator shall provide a copy of the order to all parties and, if the county prosecutor is not the prosecuting attorney, also to the county prosecutor. All further proceedings in the municipal court shall be stayed pending a timely appeal by the State, pursuant to R. 3:24. The property that is the subject of the suppression order shall, if not otherwise subject to lawful detention, be returned to the person entitled to it only after exhaustion by the State of its right to appeal.
 -
 -

- **(2) Order Denying Suppression.** An order denying suppression may be reviewed on appeal from an ensuing judgment of conviction pursuant to R. 3:23 whether the judgment was entered on a guilty plea or on a finding of guilt following trial.

- **(d) Waiver.** Unless otherwise ordered by the court for good cause, defendant's failure to make a pretrial motion to the municipal court pursuant to this rule shall constitute a waiver of any objection during trial to the admission of the evidence on the ground that the evidence was unlawfully obtained.

**Note – Briefs only in discretion of the court.
Conditional plea available.**

III. Post-trial Motions

A. Motion to reconsider sentence – Rule 7:9-4

7:9-4. Reduction or Change of Sentence

- (a) Time. **The court, in its discretion, may reduce or change a sentence, either on its own motion or on the motion of defendant, which may be either oral or written, at any time during which the court retains jurisdiction over the matter.**
- (b) Procedure. **All changes of sentence shall be made in open court upon notice to the defendant and the prosecuting attorney. An appropriate order setting forth the revised sentence and specifying the change made and the reasons for the change shall be entered on the record.**

Note:

No time limitation. Court will not retain jurisdiction once an appeal has been filed in the law Division.

Vacate fines and other financial obligations of a sentence, cite authority of the court under N.J.S.A. 2B:12-23.1.

B. Motion to reconsider factual findings – Rule 1:7-4

1:7-4. Findings by the Court in Non-jury Trials and on Motions

- (a) Required Findings. **The court shall, by an opinion or memorandum decision, either written or oral, find the facts and state its conclusions of law thereon in all actions tried without a jury, on every motion decided by a written order that is appealable as of right, and also as required by R. 3:29 The court shall thereupon enter or direct the entry of the appropriate judgment.**
- (b) Motion for Amendment. On motion made not later than 20 days after service of the final order or judgment upon all parties by the party obtaining it, the court may grant a rehearing or may, on the papers submitted, amend or add to its findings and may amend the final order or judgment accordingly, but the failure of a party to make such motion or to object to the findings shall not preclude that party's right thereafter to question the sufficiency of the evidence to support the findings. The motion to amend the findings, which may be made with a motion for a new trial, shall state with specificity the basis on which it is made, including a statement of the matters or controlling decisions that counsel believes the court has overlooked or on which it has erred. Motions for reconsideration of interlocutory orders shall be determined pursuant to R. 4:42-2.

Note – the 20-day time limitation may not be enlarged. See 1:3-4(c). This may conflict with municipal appeal under 3:23-2 and 3:24 which have the same 20-day time limitations that may not be enlarged either.

C. Motion to vacate a plea – Rule 7:6-2(b)

7:6-2. Pleas, Plea Agreements

- **(b) Withdrawal of Plea. A motion to withdraw a plea of guilty shall be made before sentencing, but the court may permit it to be made thereafter to correct a manifest injustice.**

Note: the pre-sentence and post-sentence differences in the Rule. The motion must meet the four factors set forth by the Supreme Court in *State v. Slater*, 198 N.J. 145, 157-58 (2009):

- (1) whether the defendant has asserted a colorable claim of innocence;**
- (2) the nature and strength of defendant's reasons for withdrawal;**
- (3) the existence of a plea bargain; and**
- (4) whether withdrawal would result in unfair prejudice to the State or unfair advantage to the accused.**

“Trial courts should consider and balance all of the factors discussed above in assessing a motion for withdrawal of a plea. No factor is mandatory; if one is missing, that does not automatically disqualify or dictate relief.” *State v. Slater*, 198 N.J. 145, 162 (2009).

Note: This 4-part test applies to a DWI withdrawal motion in municipal court: *State v. Mustaro*, 411 N.J. Super. 91 (App. Div. 2009).

D. Motion to stay imposition of sentence – Rule 7:13-2

7:13-2. Stay

Notwithstanding R. 3:23-5, a sentence or a portion of a sentence may be stayed by the court in which the conviction was had or to which the appeal is taken on such terms as the court deems appropriate.

3:23-5. Relief Pending Appeal

- (a) Relief From Custodial Sentence. **If a custodial sentence has been imposed, and an appeal from the judgment of conviction has been taken, the defendant shall be admitted to bail by a judge of the Superior Court in accordance with the standards set forth in R. 3:26-1a.**
- (b) Relief From Fine. **A sentence to pay a fine, a fine and costs, or a forfeiture may be stayed by the court in which the conviction was had or to which the appeal is taken upon such terms as the court deems appropriate.**
- (c) Relief From Order for Probation. **An order for probation may be stayed if an appeal is taken.**

Note: Motion may be limited to specific parts of the sentence, such as “jail term only”.

E. Motion for a new trial – Rule 7:10-1

7:10-1. New Trial

On defendant's motion, the court may, pursuant to the time limitations of this rule, grant the defendant a new trial if required in the interest of justice. The court may vacate the judgment if already entered, take additional testimony, and direct the entry of a new judgment. A motion for a new trial, based on the ground of newly discovered evidence, shall be made within two years after entry of a final judgment. A motion for a new trial on the grounds of fraud or lack of jurisdiction may be made at any time. A motion for a new trial, based on any other grounds, shall be made within twenty days after the entry of judgment of conviction or within such further time as the court fixes during the twenty-day period.

Note: time limitations may be enlarged by consent of the parties. Rule 1:3-4(a). Grounds are:

“Interest of Justice” is the foundation for all motions under this Rule. Specific grounds are:

- 1. Newly discovered evidence**
- 2. Fraud or lack of jurisdiction**
- 3. Other grounds**

F. Motion for post-conviction relief – R. 7:10-2

7:10-2. Post-Conviction Relief

- (a) Petition for Relief. A person convicted of an offense may, pursuant to this rule, file with the municipal court administrator of the municipality in which the conviction took place, a petition for post-conviction relief captioned in the action in which the conviction was entered.
-
- (b) Limitations and Exclusiveness.
 - (1) A petition to correct an illegal sentence may be filed at any time.
 -
 - (2) A petition based on any other grounds shall not be accepted for filing more than five years after entry of the judgment of conviction or imposition of the sentence sought to be attacked, unless it alleges facts showing that the delay in filing was due to defendant's excusable neglect.
 -
 - (3) A petition for post-conviction relief shall be the exclusive means of challenging a judgment of conviction, except as otherwise required by the Constitution of New Jersey, but it is not a substitute for appeal from a conviction or for a motion incident to the proceedings in the trial court, and may not be filed while appellate review or the filing of a motion in the municipal court is available.

- (c) Grounds. A petition for post-conviction relief is cognizable if based on any of the following grounds:
 - - (1) substantial denial in the conviction proceedings of defendant's rights under the Constitution of the United States or the Constitution or laws of New Jersey;
 -
 - (2) lack of jurisdiction of the court to impose the judgment rendered on defendant's conviction;
 -
 - (3) imposition of sentence in excess of or otherwise not in accordance with the sentence authorized by law; or
 -
 - (4) any ground previously available as a basis for collateral attack on a conviction by habeas corpus or any other common law or statutory remedy.
 -
- (d) Bar of Grounds Not Raised in Prior Proceedings; Exceptions.
 - - (1) The defendant is barred from asserting in a proceeding under this rule any grounds for relief not raised in a prior proceeding under this rule, or in the proceedings resulting in the conviction, or in a post-conviction proceeding brought and decided prior to the adoption of R. 3:22-4, or in any appeal taken in any of those proceedings, unless the court on motion or at the hearing finds that:

- (A) the grounds for relief not previously asserted could not reasonably have been raised in any prior proceeding;
-
- (B) enforcement of the bar would result in fundamental injustice; or
-
- (C) denial of relief would be contrary to the Constitution of the United States or of New Jersey.
-
- (2) A prior adjudication on the merits of any grounds for relief asserted in the petition is conclusive, whether made in the proceedings resulting in the conviction or any prior post-conviction proceeding, or in any appeal taken from those proceedings.
-
- (e) Assignment of Counsel. A defendant may annex to the petition a sworn statement asserting indigency in the form (Form 5A) prescribed by the Administrative Director of the Courts, which form shall be furnished by the municipal court administrator. If the court finds that the defendant is indigent as herein provided, and that the original conviction involved a consequence of magnitude, it shall order counsel assigned to represent defendant and shall further order a transcript of testimony of any proceeding shown to be necessary in establishing the grounds of relief asserted. Absent a showing of good cause, which shall not include lack of merit of the petition, the court shall not substitute new assigned counsel. If counsel is assigned, the court shall not thereafter substitute new assigned counsel absent a showing of good cause, which shall not, however, include lack of merit of the petition.

- (f) Procedure.
 - (1) The municipal court administrator shall make an entry of the filing of the petition in the proceedings in which the conviction took place, and if it is filed pro se, shall forthwith transmit a copy to the municipal prosecutor. An attorney filing the petition shall serve a copy on the municipal prosecutor before filing.
 -
 - (2) The petition shall be verified by defendant and shall set forth with specificity the facts upon which the claim for relief is based, the legal grounds of the complaint asserted and the particular relief sought. The petition shall include the following information:
 -
 - (A) the date, docket number and contents of the complaint upon which the conviction is based and the municipality where filed;
 -
 - (B) the sentence or judgment complained of, the date it was imposed or entered, and the name of the municipal court judge then presiding;
 -
 - (C) any appellate proceedings brought from the conviction, with copies of the appellate opinions attached;

- (D) any prior post-conviction relief proceedings relating to the same conviction, including the date and nature of the claim and the date and nature of disposition, and whether an appeal was taken from those proceedings and, if so, the judgment on appeal;
-
- (E) the name of counsel, if any, representing defendant in any prior proceeding relating to the conviction, and whether counsel was retained or assigned; and
-
- (F) whether and where defendant is presently confined. A separate memorandum of law may be submitted.
-
- (G) In addition, the moving papers in support of such an application shall include, if available, records related to the underlying conviction, including, but not limited to, copies of all complaints, applications for assignment of counsel, waiver forms and transcripts of the defendant's first appearance, entry of guilty plea and all other municipal court proceedings related to the conviction sought to be challenged. The petitioner shall account for any unavailable records by way of written documentation from the municipal court administrator or the custodian of records, as the case may be.

- (3) Amendments of the petitions shall be liberally allowed. Assigned counsel may, as a matter of course, serve and file an amended petition within 25 days after assignment. Within 30 days after service of a copy of the petition or amended petition, the municipal prosecutor shall serve and file an answer to the petition or move on ten days' notice for dismissal. If the motion for dismissal is denied, the government's answer shall be filed within fifteen days after entry of the order denying the dismissal.
-
- (4) A defendant in custody shall be present in court if oral testimony is adduced on a material issue of fact within the defendant's personal knowledge. A defendant in custody may otherwise be present in court only in the judge's discretion.
-
- (5) In making a final determination on a petition, either on motion for dismissal or after hearing, the court shall state separately its findings of fact and conclusions of law and shall enter judgment or sentence in the conviction proceedings and any appropriate provisions as to rearraignment, retrial, custody, bail, discharge, correction of sentence or as may otherwise be required.

Note: Civil nature of proceedings. Time enlargement can be based upon either Rule 1:3-4(a) or excusable neglect. See generally *State v. Mitchell*, 126 N.J. 565 (1992).

G. *Laurick* Applications– R. 7:10-2(g)

- (g) Petition to Obtain Relief from an Enhanced Custodial Term Based on a Prior Conviction
 - (1) Venue. **A post-conviction petition to obtain relief from an enhanced custodial term based on a prior conviction shall be brought in the court where the prior conviction was entered.**
 - (2) Time Limitations. **The time limitations for filing petitions for post-conviction relief under this section shall be the same as those set forth in R. 7:10-2(b)(2).**
 - (3) Procedure. **A petition for post-conviction relief sought under this section shall be in writing and shall conform to the requirements of Rule 7:10-2(f). In addition, the moving papers in support of such an application shall include, if available, records related to the underlying conviction, including, but not limited to, copies of all complaints, applications for assignment of counsel, waiver forms and transcripts of the defendant's first appearance, entry of guilty plea and all other municipal court proceedings related to the conviction sought to be challenged . The petitioner shall account for any unavailable records by way of written documentation from the municipal court administrator or the custodian of records, as the case may be.**
 - (4) Appeal. **Appeals from a denial of post-conviction relief from the effect of a prior conviction shall be combined with any appeal from proceedings involving the repeat offense. Appeals by the State may be taken under R. 3:23-2(a).**

Note: State v. Laurick, 120 N.J. 1 (1990). Time limitations can be relaxed under State v. Bringhurst, 401 N.J. Super. 421 (App. Div. 2008). Venue is where conviction occurred. See sample *Laurick* order for relief.