

[Questions or comments may
be directed to 609-292-4638.]

DIRECTIVE #5-06
(Supersedes Directives
#9-75 and #11-76)

To: ASSIGNMENT JUDGES

From: PHILIP S. CARCHMAN

Subj: APPELLATE DIVISION DECISIONS AND CONFORMING JUDGMENTS

Date: APRIL 13, 2006

Scope

This Directive, approved by the Supreme Court at its April 4, 2006 Administrative Conference, supersedes Directives #9-75 (issued November 21, 1975) and #11-76 (issued March 4, 1977) and promulgates procedures to be followed when the Appellate Division issues a decision in a criminal matter.

Background

Directives #9-75 and #11-76 have governed the procedures to be followed when the Appellate Division issues a decision reversing or modifying a judgment rendered by a trial court and appellate review has been exhausted. Those two Directives were issued prior to the development of the Office of the Criminal Division Manager and the PROMIS/GAVEL computer system. Further, those Directives do not cover the procedure to be followed when an Appellate Division decision is rendered that is not fully dispositive of a matter. The Conferences of Criminal Presiding Judges and Criminal Division Managers reviewed the provisions of Directives #9-75 and #11-76 and determined that they needed to be revised. Hence the issuance of this superseding directive.

Procedure

In accordance with Rule 2:11-3(c) the Appellate Division opinion shall be transmitted to the clerk of the court. The Trial Court Administrator in his or her capacity as Deputy Clerk of the Superior Court will receive copies of all opinions. Copies are also to be transmitted to the Criminal Division Manager, the Criminal Presiding Judge, and the trial judge. The Criminal Division Manager shall consult with the Criminal Presiding Judge and determine what, if any, action is needed in order to adhere to the decision of the Appellate Division.

An Appellate Division opinion does not amend a judgment. The original judgment remains in full force until it is amended or vacated by the trial court. As such, an Appellate Division decision cannot form the basis for action by the Department of Corrections (DOC). An official conforming judgment from the trial court is needed before DOC can take any required action with respect to an incarcerated defendant.

Therefore, if the defendant is incarcerated and the Appellate Division decision is fully dispositive of the matter, requiring no further proceedings, the Criminal Presiding Judge or the trial judge shall prepare an appropriate judgment that conforms to the decision of the Appellate Division. The judgment shall be signed by the Criminal Presiding Judge or the Superior Court Judge assigned to the matter and without delay delivered to the Department of Corrections and to other persons who received the original judgment.

If the defendant was sentenced to a probationary term that was stayed pending appeal, and the Appellate Division decision is dispositive, requiring no further court proceeding, the Criminal Presiding Judge or the trial judge shall prepare a judgment that conforms to the decision of the Appellate Division. The judgment shall be signed by the Criminal Presiding Judge or the Superior Court Judge assigned to the matter and without delay delivered along with a copy of the Appellate Division decision to all other persons who received the original judgment.

If further court proceedings are necessary to comply with the Appellate Division decision, the Criminal Division Manager shall ensure that the necessary actions are taken without delay to schedule the required proceedings. The Criminal Division shall ensure that all interested agencies/parties are notified.

As soon as a judgment has been signed the Criminal Division Manager shall ensure that the Appellate Division decision and conforming judgment are entered into the PROMIS/GAVEL System. Entry of the decision into PROMIS/GAVEL will update the status of the case and automatically update the defendant's CCH (Criminal Case History) "rap sheet" maintained by the New Jersey State Police. This update is accomplished through an interface between PROMIS/GAVEL and the New Jersey Criminal History Detailed Record.

P.S.C.

cc: Chief Justice Deborah T. Poritz
Commissioner, Department of Corrections
Criminal Division Judges
Theodore J. Fetter, Deputy Administrative Director
Stephen W. Townsend, Supreme Court Clerk
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AOC Directors and Assistant Directors
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