

**ADMINISTRATIVE OFFICE OF THE COURTS
STATE OF NEW JERSEY**

PHILIP S. CARCHMAN, J.A.D.
ACTING ADMINISTRATIVE
DIRECTOR OF THE COURTS



RICHARD J. HUGHES
JUSTICE COMPLEX
P.O. Box 037
TRENTON, NEW JERSEY 08625-0037

MEMORANDUM

[Questions or comments may be
directed to 609-984-8241]

To: Municipal Court Judges

From: Philip S. Carchman, J.A.D.

**Subj: Plea by Mail Form (Statement in Mitigation or Defense by Certification
-- Rules 7:12-3 and 7:6-3) -- Corrected**

Date: October 15, 2007

[My October 1, 2007 memorandum promulgated a revised statewide Plea by Mail form to be used by citizens submitting a statement to the court in mitigation or defense by certification in accordance with Rule 7:12-3 or Rule 7:6-3. Unfortunately, in quoting the text of Rule 7:12-3, the memo did not pick up the most recent amendments to that Rule that went into effect September 1, 2007. I apologize for that error and am reissuing the memorandum with today's date and quoting the correct language. The form as promulgated by the October 1 memorandum was correct and it thus retains that promulgation date; nonetheless, it is attached here as well for ease of reference.]

This memorandum promulgates a new statewide Plea by Mail form to be used by citizens submitting a statement to the court in mitigation or defense by certification in accordance with Rule 7:12-3 or Rule 7:6-3. The Plea by Mail form has been modified so as to: (1) permit a defendant to enter a plea by mail to traffic and parking offenses pursuant to R. 7:12-3, (2) permit a defendant to enter a guilty plea by mail for certain non-traffic cases pursuant to R. 7:6-3, (3) provide a space to enter the charge, (4) permit the defendant to explain why it would be an undue hardship to come to court, and (5) include a space for the defendant to provide any defense or mitigating factors for consideration by the court.

You may pre-print your court's information on the Plea by Mail form in the box located in the upper right-hand corner. This information may include your court's name, address, phone number, and fax number.

Under R. 7:12-3, use of the Plea by Mail form is permitted in all traffic and parking cases except:

- (a) those traffic offenses or parking offenses that require the imposition of a mandatory loss of driving privileges on conviction;
- (b) those involving an accident that resulted in personal injury to anyone other than the defendant;
- (c) those related to non-traffic matters that are not resolved; and

- (d) any other offense when excusing the defendant's appearance in municipal court would not be in the interest of justice.

Under R. 7:6-3 the Plea by Mail form may be used to enter a plea of guilty in non-traffic and non-parking cases, except:

- (a) cases involving the imposition of a mandatory term of incarceration on conviction, unless defendant is currently incarcerated and the mandatory term of incarceration would be served concurrently, and would not extend the period of incarceration;
- (b) cases involving an issue as to the identity of the defendant;
- (c) cases involving acts of domestic violence;
- (d) cases where the prosecution intends to seek the imposition of a custodial term in the event of a conviction, unless defendant is currently incarcerated, and the proposed term of incarceration would not extend the period of incarceration and would be served concurrently; and
- (d) any other case where excusing the defendant's appearance in municipal court would not be in the interest of justice.

When a defendant wishes to enter a plea by mail for a case permitted by R. 7:12-3 or R. 7:6-3, court staff should provide defendant with the Plea by Mail form and advise defendant to complete and return it to the court before the scheduled date. The scheduled date should be specifically indicated on the appropriate line in the first section of the form. If the judge proceeds with the case in court on the papers, the proceeding must be held in open court and on the record. The court is required to send the defendant a copy of the judgment by ordinary mail, R. 7:12-3(e) and R. 7:6-3(c). If, however, the court in a particular matter, after review of the Plea by Mail form, determines that the defendant must appear notwithstanding submission of a plea, the defendant must so be notified.

This new form, effective immediately, supersedes the Plea by Mail Form ("Statement in Mitigation or Defense by Certification per R. 7:12-3") distributed by memorandum of August 10, 2006. However, if you have an existing pre-printed inventory of that now superseded version of the Plea by Mail Form, you may continue to use them for appropriate traffic and parking offenses.

If you have any questions or comments regarding the Plea by Mail form, please contact Robert W. Smith, Assistant Director, Municipal Court Services, at (609) 984-8241.

P.S.C.

Attachment

c: Chief Justice Stuart Rabner
Municipal Court Presiding Judges
John P. McCarthy, Jr., Director
Municipal Division Managers
Robert W. Smith, Assistant Director
Lawrence E. Walton, Chief

John Podeszwa, Chief
Debra Jenkins, Chief
Florence S. Powers, Esq
Carol Welsch, Esq.
Steven D. Bonville, Special Assistant
Municipal Court Directors/Administrators

<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%; padding: 2px;">COURT I.D.</td> <td style="width: 33%; padding: 2px;">PREFIX</td> <td style="width: 33%; padding: 2px;">TICKET / COMPLAINT NO.</td> </tr> <tr> <td style="border: 1px solid black; height: 25px;"></td> <td style="border: 1px solid black; height: 25px;"></td> <td style="border: 1px solid black; height: 25px;"></td> </tr> </table>	COURT I.D.	PREFIX	TICKET / COMPLAINT NO.				_____ Municipal Court
COURT I.D.	PREFIX	TICKET / COMPLAINT NO.					

PLEA BY MAIL (R. 7:12-3 and R. 7:6-3)

Charge: _____ NOTE: This form may only be used to enter a plea for one charge, i.e., one charge per form. Please complete all sections of this form and return it to the court by _____. If you fail to return the enclosed form by the date listed, you may be required to personally appear in court to resolve your case.

State of New Jersey

vs.

Defendant's Name: _____	FIRST	M.I.	LAST
Defendant's Address: _____			
STREET ADDRESS			
_____	CITY	STATE	ZIP

Section 1. Reason for Hardship

I am the defendant in this case and certify that it would be an undue hardship for me to come to court for the following reason(s):

(Continue on the back of this form, or use additional sheets, if necessary. You must date and sign each additional sheet.)

Section 2. Advisement and Plea Instructions

This form may only be used to plead not guilty or guilty in traffic or parking cases or guilty in non-traffic cases.

I have been fully informed of my right to a reasonable postponement. I give up my right to have an attorney, to apply for a public defender, and to remain silent. I also give up my right to be present at the trial and to cross-examine any witnesses.

I understand that if I plead guilty or the judge finds me guilty for an offense, other than parking, a record of the conviction may be sent to the New Jersey Motor Vehicle Commission and, if my license was not issued by New Jersey, to the motor vehicle agency of the state that issued my driver's license.

I understand that the judgment of the court will be sent to me by ordinary mail at the above address and that if I plead guilty or am found guilty, I must pay all fines, penalties and costs imposed by the court. If I plead not guilty and I am found guilty or if I disagree with the sentence, I may appeal my case or I may appeal the sentence within 20 days of the date of the decision or sentence. Information on how to appeal the municipal court's decision may be obtained from the municipal court or the Judiciary's website at www.njcourtsonline.com.

If I plead "Not Guilty," the judge will hear the testimony of the complaining witness or other witnesses, review the facts I present below in my defense, and decide the case based on the testimony and facts presented.

If I plead "Guilty," the judge will consider the facts I present below to explain what happened before imposing any penalty against me.

Before determining the penalty, the judge may consider comments from the complaining witness, other witnesses or from the prosecutor.

Section 3. Plea

FOR TRAFFIC OR PARKING CASES ONLY (please check one):

- I plead "Not Guilty" to the above charge
- I plead "Guilty" to the above charge

FOR NON-TRAFFIC CASES ONLY (please check):

- I plead "Guilty" to the above charge

I present the following facts in defense or explanation:

(Continue on the back of this form, or use additional sheets, if necessary. You must date and sign each additional sheet.)

Section 4. Certification

I have read and acknowledged the above. I agree and certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are wilfully false, I am subject to punishment.

_____ Date

_____ Defendant's Signature