

## **RULE 2:3. Who May Appeal**

### **2:3-1. Appeal by the State in Criminal Actions**

In any criminal action the State may appeal or, where appropriate, seek leave to appeal pursuant to R. 2:5-6(a):

- **(a)** to the Supreme Court from a final judgment or from an order of the Appellate Division, pursuant to R. 2:2-2(b) or R. 2:2-3;
- **(b)** to the appropriate appellate court from: (1) a judgment of the trial court dismissing an indictment, accusation or complaint, where not precluded by the constitution of the United States or of New Jersey; (2) an order of the trial court entered before trial in accordance with R. 3:5 (search warrants); (3) a judgment of acquittal entered in accordance with R. 3:18-2 (judgment n.o.v.) following a jury verdict of guilty; (4) a judgment in a post-conviction proceeding collaterally attacking a conviction or sentence; (5) an interlocutory order entered before, during or after trial, or, (6) as otherwise provided by law.

Note: Source-R.R. 1:2-4(a) (c) (1) (2), 3:2A-10, 3:5-5(b)(7). Paragraph (b)(3) amended July 29, 1977 to be effective September 6, 1977; paragraph (b)(1) amended July 16, 1979 to be effective September 10, 1979; paragraph (b)(5) amended and (6) adopted August 28, 1979 to be effective September 1, 1979. (Explanatory note: The July 16, 1979 amendment to paragraph (b)(1) has been included in this text since the adopting order has already been entered even though the effective date is later than that applicable to the subsequent changes.)

### **2:3-2. Appeal by Defendant and Others in Criminal Actions**

In any criminal action, any defendant, the defendant's legal representative, or other person aggrieved by the final judgment of conviction entered by the Superior Court, including a judgment imposing a suspended sentence, or by an adverse judgment in a post-conviction proceeding attacking a conviction or sentence or by an interlocutory order or judgment of the trial court, may appeal or, where appropriate, seek leave to appeal, to the appropriate appellate court.

Note: Source-R.R. 1:2-1(b), 3:2A-10, 3:5-5(b)(6), 3:10-11; amended July 26, 1984 to be effective September 10, 1984; amended July 13, 1994 to be effective September 1, 1994.

### **2:3-3. Joint and Several Appeals**

Parties interested jointly, severally or otherwise in a judgment, order, decision or action may join in an appeal therefrom or may appeal separately.

Note: Source-R.R. 1:2-5.

### **2:3-4. Cross Appeals**

- **(a) To the Appellate Division.** A respondent may cross appeal as of right except that if an appeal is taken from any order by leave of court, a cross appeal may not be taken from any other order in the matter without leave pursuant to R. 2:5-6(b).
- **(b) To the Supreme Court.** A respondent may cross appeal as of right only if such cross appeal meets the requirements of R. 2:2-1(a). Further, if an appeal is taken from any order by leave of court, a cross appeal may not be taken in the matter without leave pursuant to R. 2:5-6(b).

Note: Source-R.R. 1:2-6. Former rule designated paragraph (a) and new paragraph (b) adopted February 28, 1979 to be effective immediately.

### **2:3-5. Workers' Compensation Appeals Involving Employers Only**

If the only issue on appeal is which of 2 or more employers or insurance carriers is liable or the proper apportionment of liability between 2 or more employers or insurance carriers, the award entered by the Division of Workers' Compensation shall be forthwith paid to the petitioner by the party or parties against whom judgment has been entered, and the appeal shall be taken by the party or parties making the payment. If the original award is altered on appeal the judgment shall be in favor of a party who paid and against the parties finally held responsible for payment, with interest from the date of the payment of the original award.

**Note:** Adopted July 14, 1972 to be effective September 5, 1972 (formerly R. 4:74-1(b)); amended July 16, 1981 to be effective September 14, 1981.