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

TO: **Assignment Judges**
Criminal Presiding Judges

Directive # 03-14

FROM: **Glenn A. Grant, J.A.D.**

SUBJ: **Waiver of Criminal Jury Trial Form**

DATE: **June 27, 2014**

Rule 1:8-1(a) requires that a jury trial is to be held in criminal matters, unless the defendant executes a written waiver. In State v. Blann, ___ N.J. ___ (May 28, 2014), the Supreme Court directed the Administrative Director of the Courts to promulgate a statewide jury waiver form for use in criminal cases and for trial judges to engage in a colloquy to assess the voluntariness of a defendant's request to waive the right to a jury trial. State v. Blann, __ N.J. ___ (slip op. at 2).

In Blann, the Court directed that the form and colloquy, at a minimum, highlight that a defendant who elects to waive the right to a jury trial has been advised that:

> (1) a jury is composed of 12 members of the community, (2) a defendant may participate in the selection of jurors, (3) all 12 jurors must unanimously vote to convict in order for a conviction to be obtained, and (4) if a defendant waives a jury trial, a judge alone will decide his/her guilt or innocence.
>
> State v. Blann, __ N.J. __ (slip op. at 2) (quoting State v. Blann, 429 N.J. Super. 220, 235 (App. Div. 2013) (Lisa, J.A.D., retired and temporarily assigned on recall, dissenting).

The attached waiver form encompasses the recommendation in State v. Blann.

Similar to when a defendant enters a guilty plea, judges should use discretion during the colloquy to assess the defendant's ability to voluntarily, knowingly and competently waive the right to a jury trial. For instance, if a defendant indicates or the

judge suspects that the defendant is under the influence of drugs, alcohol or medication, the judge should inquire about this subject as it relates to the defendant's competence to enter a guilty plea. Additionally, judges should explain to the defendant that in a bench trial, the prosecutor must prove each element of the offense or offenses beyond a reasonable doubt, and that the judge, as opposed to the jury, will be the factfinder.

This Directive promulgates the attached Waiver of Criminal Jury Trial Form for statewide use in criminal cases. The form has been endorsed by the Conference of Criminal Presiding Judges and the Criminal Practice Committee. Any questions or comments regarding this Directive, or the appended form, should be directed to Assistant Director Joseph J. Barraco, by email or by phone at 609-292-4638.

G.A.G.

Attachments: (1) "Waiver of Criminal Jury Trial Form" – English-language version
(2) "Waiver of Criminal Jury Trial Form" – Spanish-language version

cc: Chief Justice Stuart Rabner
Acting Attorney General John J. Hoffman
Public Defender Joseph Krakora
Criminal Division Judges
Elie Honig, Director, DCJ
County Prosecutors
Steven D. Bonville, Chief of Staff
AOC Directors and Assistant Directors
Trial Court Administrators
Criminal Division Managers
Assistant Criminal Division Managers
Gurpreet M. Singh, Special Assistant
Susan Callaghan, Chief, Criminal Practice
Vance Hagins, Asst. Chief, Criminal Practice
Melaney S. Payne, Criminal Practice

ATTACHMENT

Waiver of Criminal Jury Trial Form

State of New Jersey

v.

_____
Defendant

Superior Court of New Jersey
Law Division - _____ County
Indictment/Accusation No. _____

Waiver of Criminal Jury Trial Pursuant to *Rule* 1:8-1(a)

I, _____, the defendant in the above-entitled cause(s) charged with _____

_____

_____

acknowledge that I am entitled to a jury trial and that I further understand that:

1. A jury consists of twelve members of the community chosen to determine whether I am guilty, not guilty, or if applicable, not guilty by reason of insanity of the criminal charges brought against me in this matter.

2. I may participate in the selection of the jurors in this matter.

3. All twelve jurors must unanimously vote to convict in order for a conviction to be obtained.

4. If I waive the right to a trial by jury, a judge alone will decide whether I am guilty, not guilty, or if applicable, not guilty by reason of insanity.

5. If I waive the right to a trial by jury and there is more than one charge, the judge will render separate verdicts for each count.

Having had an opportunity to consult with counsel, I knowingly and voluntarily waive my right to a jury trial and request to be tried by the Court. I have discussed with my attorney the advantages and disadvantages of waiving my right to a trial by a jury.

I understand that by waiving my right to a jury trial any verdict or judgment entered by the Court will have the same force and effect as a jury verdict.

I acknowledge that this waiver is being made freely and voluntarily and that I have not been subject to any threats, pressure or coercion to induce this waiver nor have I been assured of any leniency or expectations of reward in consideration of this waiver.

Dated: _____ _____
Defendant

I have provided notice to the prosecution that my client has waived his or her right to a jury trial.

Dated: _____ _____
Defense Counsel

Dated: _____ _____
Prosecutor

Dated: _____ **Approved by:** _____
J.S.C.

Tribunal Superior de Nueva Jersey
Superior Court of New Jersey

Estado de Nueva Jersey
State of New Jersey

División de Derecho - Condado de _____
Law Division - County

contra
v.

Nro. de la Acusación del Gran Jurado / del Escrito de Acusación _____
Indictment/Accusation No.

_____
Acusado(a) / Defendant

Renuncia a un juicio penal con jurado conforme a la *Regla* 1:8-1(a)

Waiver of Criminal Jury Trial Pursuant to Rule 1:8-1(a)

Yo, _____, el (la) acusado(a) en la(s) causa(s) titulada(s) arriba, a quien se le imputa(n) _____

_____

_____

reconozco que tengo derecho a un juicio con jurado y entiendo, además, que:

I, _____, the defendant in the above-entitled cause(s) charged with _____

_____

_____

acknowledge that I am entitled to a jury trial and that I further understand that:

1. Un jurado consiste en doce miembros de la comunidad seleccionados para determinar si soy culpable, no culpable, o - si corresponde - no culpable por motivo de demencia de los cargos penales presentados en mi contra en este asunto.
   A jury consists of twelve members of the community chosen to determine whether I am guilty, not guilty, or if applicable, not guilty by reason of insanity of the criminal charges brought against me in this matter.

2. Puedo participar en la selección de los jurados en este asunto.
   I may participate in the selection of the jurors in this matter.

3. Todos los doce miembros del jurado deben votar unánimemente para culparme para que se pueda obtener una sentencia condenatoria.
   All twelve jurors must unanimously vote to convict in order for a conviction to be obtained.

4. Si renuncio al derecho a un juicio con jurado, solamente un juez decidirá si soy culpable, no culpable, o no culpable por motivo de demencia.
   If I waive the right to a trial by jury, a judge alone will decide whether, that I am guilty, not guilty, or if applicable, not guilty by reason of insanity.

5. Si renuncio al derecho a un juicio con jurado y hay más de un cargo, el juez pronunciará veredictos para cada cargo por separado.
   If I waive the right to a trial by jury and there is more than one charge, the judge will render separate verdicts for each count.

Habiendo tenido la oportunidad de consultar con un abogado, a sabiendas y voluntariamente renuncio a mi derecho a un juicio con jurado y solicito ser juzgado por el juez. He hablado con mi abogado sobre las ventajas y desventajas de renunciar a mi derecho a un juicio con jurado.

Having had an opportunity to consult with counsel, I knowingly and voluntarily waive my right to a jury trial and request to be tried by the Court. I have discussed with my attorney the advantages and disadvantages of waiving my right to a trial by a jury.

Entiendo que al renunciar a mi derecho a un juicio con jurado, cualquier veredicto o decisión asentada por el juez tendrá la misma validez y vigencia plena que el veredicto de un jurado.

I understand that by waiving my right to a jury trial any verdict or judgment entered by the Court will have the same force and effect as a jury verdict.

Reconozco que esta renuncia la hago libre y voluntariamente y que no he estado sujeto a ninguna amenaza, presión ni coacción para inducirme a hacer esta renuncia ni tampoco me han asegurado de ninguna indulgencia ni expectativa de recompensa en virtud de esta renuncia.

I acknowledge that this waiver is being made freely and voluntarily and that I have not been subject to any threats, pressure or coercion to induce this waiver nor have I been assured of any leniency or expectations of reward in consideration of this waiver.

Fecha / Dated: _____ _____

Acusado(a) / Defendant

He notificado a la fiscalía que mi cliente ha renunciado a su derecho a un juicio con jurado.

I have provided notice to the prosecution that my client has waived his or her right to a jury trial.

Fecha / Dated: _____ _____

Abogado(a) Defensor(a) / Defense Counsel

Fecha / Dated: _____ _____

Fiscal / Prosecutor

Fecha / Dated: _____ Aprobada por: _____

Approved By: J.S.C.