

1.16 ALTERNATE JUROR EMPANELED AFTER DELIBERATIONS HAVE BEGUN; R. 1:8-2(d) (Approved 3/93)

As you know, Juror #___ has been excused from the jury. An alternate juror has been appointed to take his/her place. As of this moment, as a new jury, you are to start your deliberations over again.

The parties have the right to a verdict reached by six jurors who have had full opportunity to participate in deliberations from start to finish. The alternate juror is now entering the jury room with no knowledge of any deliberations that may already have taken place. The remaining jurors and the alternate juror must begin at the very beginning of the deliberation process. You remaining jurors must disregard whatever may have occurred and anything which may have been said in the jury room since you entered that room after listening to my charge. You are to give no weight to any opinion which Juror #___ may have previously expressed in the jury room before he/she was excused. Together, as a new jury, you shall consider the evidence all over again as you conduct full and complete deliberations, until you have reached your verdict.

Cases:

State v. Corsaro, 107 N.J. 339 (1987); *State v. Czachor*, 82 N.J. 392 (1980); *State v. Lipsky*, 164 N.J. Super. 39 (App. Div. 1978); *State v. Trent*, 79 N.J. 251 (1979).

NOTE TO JUDGE

Substitution of juror after return of partial verdicts in criminal prosecution and thereafter permitting continued deliberations in order to reach final verdicts on remaining counts was plain error, requiring reversal of convictions on "open charges" subsequently returned by reconstituted jury. *State v. Corsaro, supra.*