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TO: _____ Municipal Court Judge

TO: _____ Prosecutor

Name of Client:
Post Conviction Motion To Vacate Guilty Plea to
Traffic Ticket
Violation:
D/O
Summons Number

Dear Judge and Prosecutor:

Please accept this Letter Brief in Support of Motion to Vacate Guilty Plea and Return to Trial Calendar. My client was charged with a minor motor vehicle violation. My client never appeared in court and, without the benefit of counsel, mailed in a check to pay the fine. My client was not aware he would suffer points and surcharges. We request the court vacate the paid fine by mail, and restore this case to the court calendar. **Please let both my office and the defendant know if this Motion has been granted.**

It would have been impossible for the court to take a factual basis for a guilty plea as required by Rule 7:6-2.

Under 7:6-2. Pleas, Plea Agreements

(a) Pleas Allowed, Guilty Plea.

(1) General. A defendant may plead not guilty or guilty, but the court may, in its discretion, refuse to accept a guilty plea. The court shall not, however, accept a guilty plea without
1 first addressing the defendant personally and determining by inquiry of the defendant and, in the court's discretion, of others,
2. that the plea is made voluntarily with understanding of the nature of the

charge

3. the consequences of the plea

4. that there is a factual basis for the plea.

My client advises me that he did not understand the nature of the charge, the consequences of the plea, nor a factual basis. He simply mailed in a check.

Rule 7:10-2. Post-Conviction Relief

(a) Petition for Relief. A person convicted of an offense may, pursuant to this rule, file with the municipal court administrator of the municipality in which the conviction took place, a petition for post-conviction relief captioned in the action in which the conviction was entered.

(b) Limitations and Exclusiveness.

(2) A petition based on any other grounds shall not be accepted for filing more than five years after entry of the judgment of conviction or imposition of the sentence sought to be attacked, unless it alleges facts showing that the delay in filing was due to defendant's excusable neglect.

(c) Grounds. A petition for post-conviction relief is cognizable if based on any of the following grounds:

(1) substantial denial in the conviction proceedings of defendant's rights under the Constitution of the United States or the Constitution or laws of New Jersey;

(4) any grounds previously available as a basis for collateral attack on a conviction by habeas corpus or any other common law or statutory remedy.

(d) Bar of Grounds Not Raised in Prior Proceedings; Exceptions.

(1) The defendant is barred from asserting in a proceeding under this rule any grounds for relief not raised in a prior proceeding under this rule, or in the proceedings resulting in the conviction, or in a post conviction proceeding brought and decided prior to the adoption of R. 3:224, or in any appeal taken in any of those proceedings, unless the court on motion or at the hearing finds that:

(A) the grounds for relief not previously asserted could not reasonably have been raised in any prior proceeding;

(B) enforcement of the bar would result in fundamental injustice; or

(C) denial of relief would be contrary to the Constitution of the United States or of New Jersey.

We request the court grant this motion to Vacate Guilty Plea and Return to Trial Calendar. In addition, under Rule 3:9-2 and the legal commentary set forth in NJ Practice, Vol. 31, Sec 415, this motion should be granted.

Very truly yours,

KENNETH A. VERCAMMEN

KAV/
Enclosure