

## **NOTICE TO THE BAR AND PUBLIC**

### **CONCLUSION OF CENTRALIZED PROCESS FOR FILING NEW POST-CONVICTION RELIEF APPLICATIONS IN DWI CONVICTIONS INVOLVING EQUIPMENT NOT PROPERLY CALIBRATED (STATE V. CASSIDY)**

The Supreme Court in State v. Cassidy, 235 N.J. 482 (2018), found that in some driving while intoxicated (DWI) cases, certain Alcotest machines were not properly calibrated and that the test results from those machines thus could not be used to convict a defendant of DWI.

The Court established a centralized process for the handling of post-conviction relief applications related to Cassidy and designated retired/recall Judge Robert A. Fall as Special Master with statewide authority to make judicial and administrative decisions. The Court subsequently designated three additional retired Superior Court judges serving on recall to sit as Municipal Court judges to assist in resolving Cassidy applications.


Over three hundred Cassidy applications submitted by defendants and defense counsel have since been resolved via this centralized process. In recent months, the number of new Cassidy applications has significantly declined. Therefore, the Court determined that there is no ongoing need for the centralized process to continue accepting new applications. The attached May 6, 2022 order provides for the conclusion of this process.

Starting June 1, 2022, all new Cassidy post-conviction relief applications shall be filed in the court (Municipal Court or Superior Court) with jurisdiction over the original DWI conviction. That Municipal Court or Superior Court shall handle such new filings pursuant to the post-conviction relief procedures outlined in the Rules of Court and not pursuant to the centralized procedures.

Judge Fall and the other designated recall judges will continue to handle those applications already filed through the centralized process, up to and including those filed on May 31, 2022, until all such applications have been resolved or until further order of the Court.

The Judiciary's webpage created to facilitate the submission of post-conviction petitions for relief by any defendant affected by the Court's Cassidy decision (<https://www.njcourts.gov/courts/mcs/cassidy.html>) is being updated to reflect the latest Order.

Questions regarding this Notice and/or attached Order may be directed to the Municipal Court Services Division in the Administrative Office of the Courts at 609-815-2900, ext. 54850.

  
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Glenn A. Grant  
Administrative Director of the Courts

Dated: May 11, 2022

## SUPREME COURT OF NEW JERSEY

The Court having held in State v. Cassidy, 235 N.J. 482 (2018), that test results from certain Alcotest breath-test machines that were calibrated without using a thermometer that produces NIST-traceable temperature readings in the calibration process are inadmissible as evidence in DWI cases; and

The Court by Order dated January 29, 2019 having designated retired/recall Judge Robert A. Fall as Special Master with statewide authority to make judicial and administrative decisions for matters arising from the Court's decision in Cassidy; and by Order dated July 25, 2019 having designated three additional retired Superior Court judges serving on recall to sit as Municipal Court judges with statewide jurisdiction to resolve Cassidy applications for post-conviction relief; and

Over three hundred Cassidy applications submitted by defendants and defense counsel having been resolved through this centralized process, and there having been a significant reduction in new Cassidy filings, such that the Special Master has advised the Court that there is no ongoing need for a centralized process; and the Court having considered that recommendation;

It is ORDERED that effective June 1, 2022, any new Cassidy post-conviction relief applications shall be filed in the court that had jurisdiction at the time of original sentencing and shall be handled by that court in accordance with the Rules of Court, not through the centralized process; and

It is FURTHER ORDERED that effective June 1, 2022, those Cassidy applications filed prior to that date shall continue to be handled by the Special Master and the designated recall judges through the centralized process.

For the Court:



Chief Justice

Dated: May 6, 2022