



State of New Jersey
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CRIMINAL JUSTICE

JOHN J. FARMER, JR.
Attorney General

PO Box 086
TRENTON, NJ 08625-0086
TELEPHONE (609) 984-6500

KATHRYN FLICKER
Director

June 11, 2001

TO: ALL PROSECUTORS

Re: No appearance/no waiver plea agreements

Dear Prosecutors:

In State v. Rolex, ___ N.J. ___ (May 30, 2001), the Supreme Court agreed with the ruling of the Appellate Division, 329 N.J. Super. 220 (App. Div. 2000), that the wide discretion given to individual prosecutors with respect to determining when to include a no appearance/no waiver plea offer in a case involving a mandatory minimum sentence under the Comprehensive Drug Reform Act appears contrary to the mandate of sentencing uniformity in State v. Brimage, 153 N.J. 1 (1998). The Division of Criminal Justice has determined that in light of the Rolex decision, prosecutors shall not be permitted to offer a no appearance/no waiver provision in any plea negotiated pursuant to the Attorney General Guidelines for Negotiating Cases Under N.J.S.A. 2C:35-12. Thus, Section 8 of Attorney General Directive No. 1998-1, which permits such offers, is hereby rescinded. Furthermore, in pending cases involving a breach of a no appearance/no waiver agreement, the prosecutor shall not retract the waiver offer; instead, the defendant shall receive the sentence to which the parties had originally agreed. This directive is effective immediately.

Very truly yours,

Debra L. Stone
Chief of Staff
Deputy Director, Operations

c: John J. Farmer, Jr., Attorney General
Paul H. Zoubek, First Assistant Attorney General
Kathryn Flicker, Director
Anthony Zarrillo, Deputy Director, Prosecutions
Charles Grinnell, Prosecutors & Police Bureau



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