

- Home
- Directions to Office
- Resume
- Alphabetical Index

# Kenneth Vercammen & Associates

A Law Office with Experienced Attorneys for Your New Jersey Legal Needs

<p><b>2053 Woodbridge Ave.</b>  <b>Edison NJ 08817</b>  <b>732-572-0500</b>  <b>1-800-655-2977</b>  <i>Personal Injury and Criminal  on Weekends 732-261-4005</i></p>	<p style="text-align: center;"><b>Princeton Area</b>  <b>68 South Main St.</b>  <b>Cranbury, NJ 08512</b>  <b>By Appointment Only</b>  <b>Toll Free 800-655-2977</b></p>	<div style="background-color: red; color: white; text-align: center; padding: 2px;"><b>FREE SPECIAL REPORT</b></div> <div style="background-color: blue; color: white; text-align: center; padding: 2px;"><b>UPDATED POINTS AND FINES FOR NJ MOTOR VEHICLE VIOLATIONS</b></div> <div style="background-color: red; color: white; text-align: center; padding: 2px;"><b>FREE SPECIAL REPORT</b></div> <div style="background-color: blue; color: white; text-align: center; padding: 2px;"><b>INCREASED JAIL FOR CRIMES AND DISORDERLY CONDUCT</b></div>
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

## Post Conviction Motion to Vacate Guilty Plea to Traffic Ticket or Criminal Guilty Plea

Search Website



**Kenneth Vercammen was the  
Middlesex County Bar Municipal  
Court Attorney of the Year**

Contact the Law Office of KENNETH A VERCAMMEN for Legal Representation

Sometimes a driver who plead guilty to a criminal or motor vehicle traffic ticket will need to file a motion to vacate their guilty plea. Sometimes a person pleads guilty without an attorney, then later receives a license suspension from DMV/MVC.

Occasionally, an attorney can vacate an uncounselled guilty plea where no factual basis was put on the court tape recording. Our office represents people charged with criminal and disorderly persons offenses. We provide representation throughout New Jersey. Criminal charges can cost you. If convicted, you can face jail, high fines, Probation over 18 months and other penalties. Don't give up! Our Law Office can provide experienced attorney representation for traffic and criminal offenses. Our website njlaws.com provides information on criminal offenses we can be retained to represent people.

**FOR POTENTIAL CLIENTS TO CONTACT US DURING NON-BUSINESS HOURS, PLEASE FILL OUT THE FORM.**

**Name:**

**Cell Phone:**

**E-Mail Address**

*If You Do Not Include a Complete E-Mail Address, Verizon will not Forward Your Contact Form to the Law Office.*

**Details of the Case**

If the matter is a criminal charge, the court is required to: 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

The following is a portion of a legal motion and brief we filed with a municipal court to vacate a guilty plea and obtain a more favorable plea:

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 and a possible suspension. 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 Court Rule 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.

**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

---

Agree

By typing " agree" into the box you are confirming that you wish to send your information to the Law Office of Kenneth Vercammen



[Change Image](#)

Write the characters in the image above

Submit

Clear



**Kenneth Vercammen was the Middlesex County Bar Municipal Court Attorney of the Year**

which the conviction took place, a petition for post-conviction relief captioned in the action in which the conviction was entered. If the municipal matter is a criminal charge, the court is required to: 1. first address the defendant personally and determine 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

(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 hearings 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 will the court grant the 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.

The following are portions of the Superior Court Rules regarding post conviction Motions:

### 3:22-1. Petition for Relief

Any person convicted of a crime may, pursuant to this rule, file with the county clerk of the county in which the conviction took place a petition for post-conviction relief captioned in the action in which the conviction was entered.

### 3:22-2. Grounds

A petition for post-conviction relief is cognizable if based upon any of the following grounds:

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

(b) Lack of jurisdiction of the court to impose the judgment rendered upon defendant's conviction;

(c) Imposition of sentence in excess of or otherwise not in accordance with the sentence authorized by law.

(d) Any ground heretofore available as a basis for collateral attack upon a conviction by habeas corpus or any other common-law or statutory remedy.

### 3:22-3. Exclusiveness of Remedy; Not Substitute for Appeal or Motion

Except as otherwise required by the Constitution of New Jersey, a petition pursuant to this rule is the exclusive means of challenging a judgment rendered upon conviction of a crime. It is not, however, a substitute for appeal from conviction or for motion incident to the proceedings in the trial court, and may not be filed while such appellate review or

motion is available.

### 3:22-4. Bar of Grounds Not Raised in Prior Proceedings; Exceptions

Any ground 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 this rule, or in any appeal taken in any such proceedings is barred from assertion in a proceeding under this rule unless the court on motion or at the hearing finds (a) that the ground for relief not previously asserted could not reasonably have been raised in any prior proceeding; or (b) that enforcement of the bar would result in fundamental injustice; or (c) that denial of relief would be contrary to the Constitution of the United States or the State of New Jersey.

### 3:22-5. Bar of Ground Expressly Adjudicated

A prior adjudication upon the merits of any ground for relief is conclusive whether made in the proceedings resulting in the conviction or in any post-conviction proceeding brought pursuant to this rule or prior to the adoption thereof, or in any appeal taken from such proceedings....

### 3:22-7. Docketing; Service on Prosecutor; Assignment for Disposition

The clerk shall make an entry of the filing of the petition in the proceedings in which the conviction took place, and, if it is filed pro se, shall forthwith transmit a copy thereof to the prosecutor of the county. If the petition is filed by an attorney, that attorney shall serve a copy thereof on the prosecutor before filing and shall file proof, certification or acknowledgment of service with the petition. The clerk shall promptly notify the Assignment Judge or judge designated by the Assignment Judge of the filing of the petition, who shall forthwith refer the matter for disposition to a trial judge.

### 3:22-8. Contents of Petition; Verification

The petition shall be verified by defendant and shall

set forth with specificity the facts upon which the claim for relief is based, the legal grounds of complaint asserted, and the particular relief sought. The petition shall include the following information: (a) the date, docket number, and content of the indictment or accusation upon which the conviction was based and the county where filed; (b) the date and content of the sentence or judgment complained of and the name of the presiding judge; (c) any appellate proceedings brought from the conviction, attaching a copy of opinions therein; (d) any previous post-conviction proceedings relating to the same conviction, giving date and nature of claim and date and nature of disposition, and concerning any appeal therefrom, together with copies of opinions therein, trial and appellate; (e) whether petitioner was represented by counsel in any of the proceedings aforementioned, naming the counsel in each such proceeding, and stating whether counsel was in each instance retained or assigned; (f) whether and where defendant is presently confined. Argument, citations and discussion of authorities shall be omitted from the petition, but may be submitted in a separate memorandum of law.

### 3:22-9. Amendments of Pleadings; Answer or Motion by Prosecutor

Amendments of pleadings shall be liberally allowed. Assigned counsel may as of course serve and file an amended petition within 25 days after assignment. Within 30 days after service of a copy of the petition or amended petition, the prosecutor shall serve and file an answer thereto or move on 10 days' notice for dismissal. If a motion for dismissal is denied the State's answer shall be filed within 15 days thereafter. The court may make such other orders with respect to pleadings as it deems appropriate.

### 3:22-10. Presence of Defendant at Hearing; Preference

The proceedings shall be given preference and be determined promptly. A defendant in custody may be present in court in the court's discretion and shall be entitled to be present when oral testimony is adduced on a material issue of fact within the defendant's personal knowledge.

### 3:22-11. Determination; Findings and Conclusions; Judgment; Supplementary Orders

In making final determination upon a petition, either on motion for dismissal or after hearing, the court shall state separately its findings of fact and conclusions of law, and shall enter a judgment, which shall include an appropriate order or direction with respect to the judgment or sentence in the conviction proceedings and any appropriate provisions as to arraignment, retrial, custody, bail, discharge, correction of sentence, or as may otherwise be required.

### 3:22-12. Limitations

A petition to correct an illegal sentence may be filed at any time. No other petition shall be filed pursuant to this rule more than 5 years after rendition of the judgment or sentence sought to be attacked unless it alleges facts showing that the delay beyond said time was due to defendant's excusable neglect.

### Conclusion

It is well established that the prosecution of a defendant for criminal and traffic offenses are serious matters. In such a proceeding the burden of proof is upon the state to establish all elements of the offense beyond a reasonable doubt. Plea bargaining is permitted in most cases handled by attorneys. Never attempt to represent yourself if you are facing serious charges.

Criminal and traffic offenses carry penalties which will effect your client for the rest of his life. The space limits of this article do not allow detailed explanation of the extensive caselaw on penalties. Criminal and traffic law and defenses are explained in greater details in other articles on njlaws.com. Call 732-572-0500 to schedule a confidential consultation.

# Minimum Mandatory Fines, Points, Jail and Penalties Relating to Selected Motor Vehicle Offenses

Receive free NJ Laws Email newsletter  
with current laws and cases

 


## Telephone Consultation Program

## New Article of the Week

Meet with an experienced Attorney to handle your important legal needs.  
Please call the office to schedule a confidential "in Office" consultation.  
Attorneys are not permitted to provide legal advice by email.

Kenneth Vercammen's Law office represents individuals charged with criminal, drug offenses, and serious traffic violations throughout New Jersey. Our office helps people with traffic/ municipal court tickets including drivers charged with Driving While Intoxicated, Refusal and Driving While Suspended.

Kenneth Vercammen was the NJ State Bar Municipal Court Attorney of the Year and past president of the Middlesex County Municipal Prosecutor's Association.

Criminal and Motor vehicle violations can cost you. You will have to pay fines in court or receive points on your drivers license. An accumulation of too many points, or certain moving violations may require you to pay expensive surcharges to the N.J. DMV [Division of Motor Vehicles] or have your license suspended. Don't give up! The Law Office of Kenneth Vercammen can provide experienced attorney representation for criminal motor vehicle violations.

When your job or driver's license is in jeopardy or you are facing thousands of dollars in fines, DMV surcharges and car insurance increases, you need excellent legal representation. The least expensive attorney is not always the answer. Schedule an appointment if you need experienced legal representation in a traffic/municipal court matter.

Our website provides information on traffic offenses we can be retained to represent people. Our website also provides details on jail terms for traffic violations and car insurance eligibility points. Car insurance companies increase rates or drop customers based on moving violations.



# Contact the Law Office of Kenneth Vercammen & Associates, P.C. at 732-572-0500 for an appointment.

The Law Office cannot provide legal advice or answer legal questions over the phone or by email. Please call the Law office and schedule a confidential "in office" consultation. The Law Office now accepts payment by American Express, Visa and Master Card.

[Alphabetical Index](#)

[Telephone Consultation Program](#)

[Resume](#)

[Retain Attorney By PayPal](#)

[Directions to Office](#)

[Traffic Court Interview Form](#)

[NJ Laws Blog](#)

[NJ Traffic Law & Municipal Court Blog](#)

[BE NOT GUILTY WEBSITE](#)

[Homepage](#)

[Return to Previous Page](#)

**Disclaimer:** This web site is purely a public resource of general New Jersey information (intended, but not promised or guaranteed to be correct, complete, or up-to-date). It is not intended to be a source of legal advice, do not rely on information at this site or others in place of the advice of competent counsel. The Law Office of Kenneth Vercammen complies with the New Jersey Rules of Professional Conduct. This web site is not sponsored or associated with any particular linked entity unless specifically stated. The existence of any particular link is simply intended to imply potential interest to the reader, inclusion of a link should not be construed as an endorsement.

© 2011 Kenneth Vercammen & Associates, P.C.