

New Jersey Isn't Burning

Dear Editor:

We were a bit confused after reading the commentary titled "Lesson From 'Mississippi Burning'" in the Sept. 12 edition [181 N.J.L.J. 1007]. The author advocates revising New Jersey Court Rule 2:9-4, apparently based upon his view that the rule as presently constituted would require a New Jersey judge to release on bail pending appeal a defendant such as Edgar Ray Killen, the man convicted in Mississippi of manslaughter for the 1964 deaths of three civil rights activists.

However, a careful reading of R. 2:9-4 reveals that it already empowers judges in this state to evaluate the safety of the community as part of their consideration of whether a defendant should be entitled to bail following conviction.

It seems to us that the four considerations for bail pending appeal already encompassed within R. 2:9-4 — whether the case involves a substantial question that should be determined by an appellate court, the safety of any person, the safety of the community and the risk of defendant's flight — invest in the court a wide range of discretion to consider whether a defendant should be released on bail pending appeal.

It is our opinion that the rule as presently drafted is perfectly appropriate to enable judges to decide fact-sensitive cases and the merits of each individual application for bail pending appeal. Applications for bail pending appeal should not be judged based upon public disdain or the unpopularity of the particular case being considered. In our view, R. 2:9-4 is eminently sensible, and needs no tinkering.

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