

# ATLANTIC COUNTY PROSECUTOR'S OFFICE

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Prosecutor

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## NEWS RELEASE

For immediate release  
May 20, 2009  
2 Page(s)

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**MAYS LANDING** – A Pleasantville man who entered a guilty plea in 2008 to a weapons offense and was sentenced to five-years in prison and appealed, went to trial this week and was convicted of possession of a weapon by a convicted person. Now the defendant faces five to 20 years in prison if sentenced as a persistent offender, Atlantic County Prosecutor Ted Housel announced Wednesday.

Superior Court Judge Bernard E. DeLury presided over Eugene Kelly's trial on one of the three counts in the Indictment; possession of a weapon by a convicted person. Two counts were dismissed on the State's motion, which allowed the State to try the most serious count first. Whatever the sentence, Kelly, 40, would have to serve five years in prison before parole eligibility. However, the State will make a formal application to sentence Kelly as a persistent offender. If the Judge grants the motion, the defendant could face up to 20 years in prison and he would be ineligible for parole for as many as 10 years decade, Assistant Prosecutor Mario Formica, who handled the State's case, said.

On March 26, 2007, Kelly was detained in the area of Washington Avenue and Main Street in Pleasantville shortly after a police officer witnessed the man staggering on the sidewalk. The officer engaged Kelly in conversation and asked for his identification three times. As Kelly reached for his identification he was ordered to stop. The officer then asked Kelly to place his hands above his head in order to retrieve the identification, whereupon a gun was observed in Kelly's waistband. The gun was seized and found to be a fully loaded .22-caliber handgun, according to Formica said.

Kelly was previously convicted of possession of controlled dangerous substances with intent to distribute, which prohibited him from carrying a firearm, Formica stated. He has also been convicted of joyriding, which is the temporary holding of a motor vehicle; possession of controlled dangerous substances and conspiracy to distribute CDS on three separate occasions, Formica stated.

Kelly entered his guilty plea on Feb. 22, 2008, to unlawful possession of a weapon, which carries a prison term of five years with no term of parole ineligibility. At that time the State agreed to dismiss the most serious charge of possession of a weapon by a

convicted felon. The defendant also agreed to waive his right to appeal his sentence and that if he appealed the sentence, the State could withdraw from the plea agreement, Formica stated.

On Aug. 8, 2008, the defendant was sentenced to the negotiated plea agreement. Six days later Kelly appealed the sentence, Formica stated. On Nov. 20, 2008, Prosecutor Housel received notice that Kelly appealed his sentence. At Housel's direction, the State exercised its right to annul the defendant's plea agreement, which was granted, the original charges were restored and the case went to trial.

Kelly will be sentenced before Superior Court Judge James E. Isman on July 24.

**Anyone with information involving serious crimes is asked to call the Atlantic County Prosecutor's Office at 609-909-7800 or go to the Prosecutor's Office Web site at <http://www.acpo.org/tips.html> and provide information by filling out the form anonymously on the Submit a Tip page. People can also call Crime Stoppers at 609-652-1234 or 1-800-658-8477 (TIPS). Crime Stoppers offers cash rewards for information leading to the arrest and indictment of those who commit crimes in Atlantic County.**