

APPLICATION FOR CONVICTION REVIEW

The Tompkins County District Attorney's Office is committed to ensuring that innocent persons have not been wrongfully convicted of a crime.

The Tompkins County District Attorney's Office will review cases that meet the following criteria:

1. The conviction must have occurred in Tompkins County.
2. The petitioner must present a claim of actual innocence (he/she did not commit or participate in the crime).
3. The conviction must be of a felony, with the highest priority of review for individuals who are incarcerated and have been convicted of serious and/or violent felonies.
4. The claim must be supported by information or evidence not previously litigated before the original trier of fact (judge or jury.)
5. The claim must be capable of being investigated and resolved, and if substantiated, would bear directly on the issue of innocence.
6. The conviction must be in the procedural posture that the direct appeal has become final and there is no pending litigation.
7. The claim must not be frivolous.

A plea of guilty is not a bar to review.

The primary purpose is to evaluate claims of innocence based on information and evidence not presented to the original trier of fact. The investigative team will consider new information and evidence, along with information and evidence that had been previously presented.

Initial each statement below to indicate your understanding and agreement:

_____ Acknowledgement of receipt of the Application by the Tompkins County District Attorney's Office does not indicate acceptance of the case for investigation, nor does it infer acceptance of the validity of the claim of innocence.

_____ Requesting review of your case by our office does not toll the time you have to pursue post-conviction remedies, such as filing an appeal or post-conviction motions. You need to pursue those remedies separately.

_____ I understand this is an extrajudicial process and there is no right of appeal from declination by the Tompkins County District Attorney's Office. All decisions made, including the decision to accept a petition regarding re-opening a case investigation, as well as how the claim will be investigated and resolved, are at the discretion of the Tompkins County District Attorney's Office.

**IF YOU ARE REPRESENTED BY COUNSEL,
THIS FORM MUST BE SUBMITTED BY YOUR ATTORNEY.**

Please complete this petition in its entirety. If you have supporting documents, please provide copies, if possible, or indicate that you have such documents. **Do not send your originals or the only copies you have.**

Please be advised that this office does not represent you. We are unable to give you legal advice, and the attorney-client privilege does not apply to any information you provide to us in this form or any other communication.

APPLICANT INFORMATION:

Name: _____

Address: _____

Email address: _____

Phone Number: _____

Relationship to Convicted Person: _____

Convicted Person's Address/Location in DOCCS and DIN:

Are you currently represented by an attorney?

Yes _____ No _____

If yes, please provide attorney's name and contact information:

Important: If you are currently represented by an attorney, the District Attorney's Office will only communicate with your attorney. You should consult your attorney prior to submitting your Petition; your attorney may want to wait to submit the Petition or submit the Petition on your behalf.

CASE INFORMATION

Indictment Number: _____

Offenses of Conviction:

Date of Conviction:

Sentence Received:

How convicted?:

_____ Jury Trial _____ Bench trial _____ Guilty Plea

Did the convicted person give a statement to the police? Yes No

Did the convicted person testify at trial? Yes No

Was there DNA evidence? Yes No

Is the conviction currently being challenged on appeal? Yes No

If yes, please provide the case number and claims raised:

Is there a habeas corpus petition currently pending before a court? Yes No

Is there any other pending litigation that involves the same subject matter as your criminal case? Yes No

If yes, please explain type and any associated case number:

Explain in detail the basis for the applicant's claim of innocence:

How was the applicant wrongfully convicted?

Do you claim that exculpatory, mitigating or impeachment evidence was not disclosed to your defense team by the prosecution? If yes, please describe the evidence you believe was not provided. How did you come to learn of the existence of this information?

What new information or evidence, if any, exists that was not known at the time of the trial?

Finally, provide any other information you think would be helpful in reviewing your case. Include information (name, phone numbers, addresses and email) for any person you think could provide information that could assist in your claims or verify any of the information you provided:

Please be advised that this office does not represent you. We are unable to give you legal advice, and the attorney-client privilege does not apply to any information you provide to us in this form or any other communication.

Date: _____

Signature of Applicant

Printed Name

APPLICANT WAIVER AND CONSENT FORM

In order for the Tompkins County District Attorney's Office to begin an investigation under the Conviction Review Protocol, the convicted person must agree to all of the following and indicate such agreement by initialing at the beginning of each statement.

1. _____ I am requesting a review of my claim of actual innocence for my conviction(s) in this case.
2. _____ I consent to a formal inquiry of my case under the Conviction Review Protocol.
3. _____ I agree to fully cooperate with the investigatory panel's review.
4. _____ I agree to provide full disclosure regarding all inquiries made by the investigatory panel.
5. _____ I understand and agree this is an extrajudicial process, which means that there is no right of review or appeal of any decision by the District Attorney regarding my application for review.
6. _____ I understand that neither the Tompkins County District Attorney nor the investigatory panel is my attorney and that statements made in this application or to the investigatory panel are not confidential and are not covered by any immunity agreement unless otherwise agreed to in writing.
7. _____ I understand, as it relates only to my pending application and the associated case being reviewed by the investigatory panel, that I am waiving my right against self-incrimination pursuant to the Fifth Amendment of the United States Constitution and the New York State Constitution.
8. _____ I understand that the review of my case pursuant to the Conviction Review Protocol will not extend any deadlines of any proceedings, including any appellate proceedings.
9. _____ I understand that the investigatory panel may disclose to any authorities any evidence or information uncovered or learned by the panel including information that tends to show that other people may have been involved in the commission of the crime(s) for which I was convicted.
10. _____ I understand that evidence uncovered by the investigatory panel that is favorable to me will be disclosed to me or my legal representative regardless of the outcome of the review.
11. _____ I certify that all of the above statements are true and accurate.
12. _____ I acknowledge that providing false information will result in a dismissal of my application.

13. _____ I understand the Tompkins County District Attorney may determine that my case does not meet the criteria for review at any point and may reject my claim without any explanation, and without any review or appeal by any court or agency.

14. _____ I understand that if I refuse to cooperate in any way or become uncooperative with the investigatory panel's review process, the review may be cancelled.

Date: _____

Signature of Applicant

Submitting the form via U.S. Mail:

You can save and print this petition and mail directly to the Tompkins County District Attorney's Office along with other documents to the following address:

Tompkins County District Attorney's Office
320 North Tioga Street
Ithaca, New York 14850

Submitting the form via email:

You can save this form and submit it directly to the office by email. Please send the completed application and any other supporting documents to cshutts@tompkins-co.org with the Applicant's name in the subject line.