



# DELAWARE DEPARTMENT OF JUSTICE OFFICE OF CIVIL RIGHTS AND PUBLIC TRUST ACTUAL INNOCENCE PROGRAM APPLICATION FORM

## INSTRUCTIONS

In order for the Department of Justice to determine your eligibility for the Actual Innocence Program (the “Program”), you must answer as many of the questions below and provide as much information as possible. If you have supporting documents, affidavits or letters please provide copies of those documents – do not submit originals or your only copy of a document. Please feel free to use additional paper if your answers do not fit in the space provided. Once complete, you may submit the form and any supporting documents electronically to [PublicTrust@state.de.us](mailto:PublicTrust@state.de.us) or send the form and any supporting documents via U.S. mail to Delaware Department of Justice, Office of Civil Rights and Public Trust, 102 West Water Street, Dover, Delaware 19904. Whether submitting electronically or by U.S. mail, please keep a copy of the completed form and any supporting documents for your records.

The Program will only review conviction(s) that meets the following prerequisites;

- 1) The conviction must have been in the Superior Court of the State Delaware,
- 2) The convicted offender must be a living person,
- 3) There must be a claim of actual innocence, not a legal issue,
- 4) New and credible physical or scientific evidence must exist,
- 5) The claim must not be frivolous, and
- 6) The convicted offender waives his or her procedural safeguards and privileges, agrees to cooperate with the Program and agrees to provide full disclosure regarding all inquiry requirements of the Program. Please complete and sign the Waiver of Procedural Safeguards and Privileges attached to the questionnaire.

The Program does not review non-innocence related claims such as those concerning procedural errors at trial and ineffective assistance of counsel. Such cases may be screened and summarily dismissed by the Program. The Program will only consider applications that claim the existence of physical, scientific, or documentary evidence (including phone records, electronic records, writings, audio recordings, or video recordings) suggesting that the applicant is serving jail time when he or she in fact committed no crime.

If you have any questions, please send an email to [PublicTrust@state.de.us](mailto:PublicTrust@state.de.us) or call (302) 577-5400.

**REQUIRED INFORMATION**

1. Name of person requesting a review of his/her conviction:

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- Convicted individual's State Bureau of Identification number: \_\_\_\_\_
- Convicted individual's current mailing address: \_\_\_\_\_

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- Convicted individual's phone number (if not incarcerated): \_\_\_\_\_

2. Name of person filling out application (if applicant is different from convicted individual):

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- Applicant's current address: \_\_\_\_\_

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- Applicant's phone number: \_\_\_\_\_
- Relationship of applicant to convicted individual: \_\_\_\_\_

3. Case number: \_\_\_\_\_

4. Charge(s) for which you were convicted that is/are the basis for this review request:

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5. Date of conviction(s): \_\_\_\_\_

6. Court where conviction(s) occurred: \_\_\_\_\_

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7. Was there a guilty verdict or a guilty plea? Verdict \_\_\_\_\_ Plea \_\_\_\_\_

8. Name of defense attorney at trial/plea: \_\_\_\_\_

9. Have any direct appeals been filed: Yes \_\_\_\_\_ No \_\_\_\_\_

10. If any direct appeals have been filed:

- Dates appeals were filed: \_\_\_\_\_
- Dates appeals were decided: \_\_\_\_\_
- Which appeals, if any, are still pending: \_\_\_\_\_  
\_\_\_\_\_
- Name of attorney for direct appeals: \_\_\_\_\_

11. Have any motions for post-conviction relief been filed: Yes \_\_\_\_ No \_\_\_\_\_

12. If any motions have been filed:

- Dates motion(s) were filed: \_\_\_\_\_
- Dates motion(s) were decided: \_\_\_\_\_
- Which appeals, if any, are still pending: \_\_\_\_\_  
\_\_\_\_\_
- Name of attorney for post-conviction motions: \_\_\_\_\_

13. Was there a request for post-conviction DNA testing? Yes \_\_\_\_\_ No \_\_\_\_\_

- If yes, was request granted? Yes \_\_\_\_\_ No \_\_\_\_\_
- List what was tested and the results of the test (s): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



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15. Please provide any other information that could be helpful in reviewing the conviction(s), including names and contact information for individuals that could assist in verifying the claim of wrongful conviction:

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Date submitted: \_\_\_\_\_

Please note that the Program reviews cases for the sole purpose of investigating claims of actual innocence. The decision to review and further investigate a claim cannot be inferred as an acceptance of the validity of the alleged innocence claim. Moreover, in consenting to allow DNA testing, the State of Delaware does not concede and takes no position on the significance (or lack thereof) of any DNA results that may be obtained in the course of the testing. Moreover, the Program does not act as legal counsel to any person whose case is being investigated.

## **Delaware Department of Justice Actual Innocence Program**

### **WAIVER AND CONSENT**

State of Delaware, County of \_\_\_\_\_

Superior Court of Delaware, Case # \_\_\_\_\_

Name of Convicted Offender: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Highest Level of Education: \_\_\_\_\_

Alleged Date of Offense: \_\_\_\_\_ Date of Conviction: \_\_\_\_\_

The convicted offender must review the completed waiver and consent form before submitting.

The convicted offender must place his/her initials to the right of each statement if he/she agrees with the statement and agrees to comply with the terms therein.

The Delaware Department of Justice's Actual Innocence Program shall be referred to as the "Program" throughout this document.

### **WAIVER OF PROCEDURAL SAFEGUARDS & PRIVILEGES/CONSENT TO INQUIRY**

1. I acknowledge that I have been convicted of the offense(s) noted above by the State of Delaware: \_\_\_\_\_
2. I believe that new and credible evidence of innocence must exist: \_\_\_\_\_
3. I am requesting that the Program review my claim of complete factual innocence:  
\_\_\_\_\_
4. I consent to a formal inquiry of my case by the Program: \_\_\_\_\_
5. I agree to cooperate fully with the Program: \_\_\_\_\_
6. I agree to provide full disclosure regarding all inquiry requirements of the Program's review: \_\_\_\_\_
7. I understand that if I refuse to cooperate in any way or become uncooperative with the Program, the inquiry may be discontinued: \_\_\_\_\_
8. I understand that the Program may determine that my case does not meet the criteria and at any point reject my claim: \_\_\_\_\_
9. I understand that I have no right to appeal a rejection of my claim by the Program:  
\_\_\_\_\_

10. I understand that the Program may provide disclosure to the appropriate authorities of the following:

- (a) Evidence uncovered by the Program that supports my guilt: \_\_\_\_\_
- (b) Evidence uncovered by the Program that tends to show I may have committed unrelated felonies: \_\_\_\_\_
- (c) Evidence uncovered by the Program that tends to show I may be guilty of a higher-level crime than the one for which I was charged or convicted: \_\_\_\_\_
- (d) Evidence uncovered by the Program that tends to show that other people may have been involved in the commission of the crime for which I was convicted: \_\_\_\_\_
- (e) Evidence of criminal acts, professional misconduct and other wrongdoings of others will be referred to the appropriate authorities: \_\_\_\_\_

11. I also understand that evidence uncovered by the Program that is favorable to me shall be disclosed by me regardless of the outcome of the review: \_\_\_\_\_

**ACKNOWLEDGEMENT BY CONVICTED OFFENDER**

I have read and understand all of the above statements. By submitting this application, I understand and agree to comply with any terms herein. I am also affirming, by submitting this application, that all information is true and accurate to the best of my knowledge. Making false statements on this application may subject you to prosecution. No one has told me to agree to anything that I oppose or do not understand. My agreements are of my own free will and are given voluntarily.

Date: \_\_\_\_\_

Name of Convicted Offender (Print or Type): \_\_\_\_\_

**CERTIFICATION BY ATTORNEY FOR CONVICTED PERSON** (if represented by counsel)

I hereby certify that I have fully explained to the convicted Offender each statement and that his/her submission is a result of an independent and informed decision by him/her. I further certify that I was with the convicted Offender as he/she completed the application and that the name on the application above is indeed that of the convicted person.

Date: \_\_\_\_\_

Name of the Lawyer for the Convicted Offender (Printed or Type): \_\_\_\_\_

**The completed original of this form must be delivered to the Actual Innocence Program. Please retain a copy for your records.**