

Thursday

21st

July, 2005.

It is ordered that the Rules heretofore adopted and promulgated by this Court and now in effect be and they hereby are amended to become effective August 15, 2005.

Add Form 12, Appendix of Forms, Part Five A to read as follows:

**PETITION FOR A WRIT OF ACTUAL INNOCENCE  
BASED ON NONBIOLOGICAL EVIDENCE**

THE COURT OF APPEALS OF VIRGINIA

\_\_\_\_\_  
(FULL NAME OF PETITIONER AND  
PRISONER NO., IF APPLICABLE)

Record No. \_\_\_\_\_  
OF APPEALS) (TO BE SUPPLIED BY THE CLERK OF THE COURT

v.

Commonwealth of Virginia  
(RESPONDENT)

\_\_\_\_\_  
(PETITIONER'S ADDRESS)

\_\_\_\_\_

\_\_\_\_\_

Pursuant to the provisions of Chapter 19.3 of Title 19.2 of the Code of Virginia, I,

\_\_\_\_\_  
NAME OF PETITIONER

hereby petition this Court for a WRIT OF ACTUAL INNOCENCE BASED ON NONBIOLOGICAL EVIDENCE. In support of this petition, I state under oath that the following information is true:

1. On \_\_\_\_\_, I was convicted in the  
DATE

\_\_\_\_\_ Circuit Court of the following offense(s):

JURISDICTION (CITY/COUNTY)

Description of Felony Offense	Virginia Code	Circuit Court Case No.	Plea
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

2. I am innocent of the crime(s) that are the subject of this petition.

3. I understand that I can file only one petition for any felony conviction and I have not previously filed a Petition For A Writ Of Actual Innocence Based On Nonbiological Evidence with regard to the above conviction(s) in the Court of Appeals of Virginia.

4. My claim of innocence is based upon the following evidence:

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[ ] ATTACHED ADDITIONAL SHEET(S)

5. This evidence was previously unknown or unavailable to either me or my attorney at the time the conviction(s) became final in the circuit court.

6. This evidence became known or available to me on \_\_\_\_\_.  
DATE

7. The circumstances under which the evidence was discovered were

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[ ] ATTACHED ADDITIONAL SHEET(S)

8. This evidence could not have been discovered or obtained by the exercise of diligence before the expiration of 21 days following entry of the final order(s) of conviction by the court.

9. The evidence upon which I base my claim is material and when considered with all of the other evidence in the record, will prove that no rational trier of fact could have found me to be guilty beyond a reasonable doubt of the charge(s) described above because

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[ ] ATTACHED ADDITIONAL SHEET(S)

**10.** In support of this petition, I have attached the following documents:

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[ ] ATTACHED ADDITIONAL SHEET(S)

**11.** I understand that this petition must contain all relevant allegations of facts that are known to me at this time.

**12.** I understand that it must include all previous records, applications, petitions, appeals, and their dispositions related to this conviction, as well as a copy of any documents or evidence in support of the facts that I assert above.

**13.** I understand that if this petition is not complete, this Court may dismiss the petition or return the petition to me pending the completion of such form.

**14.** I understand that I am responsible for all statements contained in this petition.

**15.** I understand that any knowingly or willfully made false statement shall be a ground for prosecution and conviction of perjury as provided for in Virginia Code § 18.2-434.

**16.** Counsel. Check the appropriate box.

[ ] I am being represented by an attorney on the filing of this petition. My attorney's name and address are

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[ ] I am not being represented by an attorney on the filing of this petition.

**17.** Exemption from filing fee. Check box below if claiming *in forma pauperis* status and seeking to file this petition without payment of fees.

I claim *in forma pauperis* status and I request that this Court accept this petition without the payment of filing fees. I affirm under oath that I am eligible for *in forma pauperis* status. My assets amount to \$ \_\_\_\_\_ (which sum includes my institutional inmate account which has a balance of \$ \_\_\_\_\_), and my liabilities amount to \$ \_\_\_\_\_.

**18.** Request for counsel. Check box below if claiming eligibility for court-appointed counsel and requesting appointment of counsel.

I am requesting that the Court appoint counsel to represent me in this action. I affirm under oath that I am unable to pay for an attorney to represent me in this action, as set forth in item No. 17 above.

Based on the above, I petition this Court pursuant to the provisions of Chapter 19.3 of Title 19.2 of the Code of Virginia for a Writ of Actual Innocence Based on Nonbiological Evidence.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE OF PETITIONER

Commonwealth/State of \_\_\_\_\_

City  County of \_\_\_\_\_

Subscribed and sworn to/affirmed before me on this date by the above-named person.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
NOTARY PUBLIC  
My commission expires: \_\_\_\_\_

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE OF ATTORNEY (IF APPLICABLE)

\_\_\_\_\_  
VIRGINIA STATE BAR NUMBER

Pro se (self- represented) petitioners: You are required to send copies of the PETITION FOR A WRIT OF ACTUAL INNOCENCE BASED ON NONBIOLOGICAL EVIDENCE and all attachments to the Commonwealth's Attorney of the jurisdiction where the conviction(s) occurred and to the Attorney General of Virginia by certified mail. You must complete the form entitled Court of Appeals Form CAV-104, CERTIFICATE OF MAILING- PETITION FOR A WRIT OF ACTUAL INNOCENCE BASED ON NONBIOLOGICAL EVIDENCE.

Petitioners represented by counsel: You are required to serve copies of the PETITION FOR A WRIT OF ACTUAL INNOCENCE BASED ON NONBIOLOGICAL EVIDENCE and all attachments on the Commonwealth's Attorney of the jurisdiction where the conviction(s) occurred and on the Attorney General of Virginia. You must include the forms entitled Court of Appeals Form CAV-103CA, ACCEPTANCE OF SERVICE OR RETURN OF SERVICE BY THE COMMONWEALTH'S ATTORNEY- PETITION FOR A WRIT OF ACTUAL INNOCENCE BASED ON NONBIOLOGICAL EVIDENCE and Court of Appeals Form CAV-103AG, ACCEPTANCE OF SERVICE OR RETURN OF SERVICE BY THE ATTORNEY GENERAL- PETITION FOR A WRIT OF ACTUAL INNOCENCE BASED ON NONBIOLOGICAL EVIDENCE.

A Copy,

Teste:

Clerk