

MOTION FOR DNA EVIDENCE EXAMINATION

Instructions – Read Carefully

1. This motion must be legibly handwritten or typed, and made under oath by the defendant. Any false statement of a material fact may serve as a basis for prosecution and conviction for perjury. All questions must be answered concisely in the proper space on the form.
2. Additional pages are not permitted except with respect to the facts and descriptions of the physical evidence that you rely upon to support your grounds for relief. No citation of the authorities need be furnished. If briefs or arguments are submitted in support of your legal claims (as opposed to your factual claims), they should be submitted in the form of a separate memorandum of law. This memorandum should have the same caption as the motion.
3. The motion must be filed either (1) within 2 years following the date that the judgement and sentence in the case becomes final if no direct appeal is taken, within 2 years following the date that the conviction is affirmed on direct appeal if an appeal is taken, within 2 years following the date that collateral counsel is appointed or retained subsequent to the conviction being affirmed on direct appeal in a capitol case, or by October 2003, whichever occurs later; or (2) may be filed at any time if the facts on which the petition is predicated were unknown to the petitioner of the petitioner's attorney and could not have been ascertained by the exercise of due diligence.
4. No filing fee is required when submitting a motion for DNA evidence examination. If you are not indigent the court may assess the cost of DNA testing to you.
5. Only the physical evidence of one case may be examined in a single motion for DNA evidence examination. If you seek to examine physical evidence entered in different cases, or different courts, you must file separate motions as to each such case. The single exception to this is if you are examining physical evidence in the different case that were consolidated for trial. In this event, show each case number involved in the caption.
6. Your attention is directed to the fact that you must include all facts and descriptions of the physical evidence that support the grounds for relief, in the motion you file seeking DNA evidence examination.
7. The court shall make the following findings when ruling on the petition (1) whether the sentenced defendant has shown that the physical evidence that may contain DNA still exists; (2) whether the results of DNA testing of the physical evidence would have been admissible in trial; (3) whether there exists reliable proof that the evidence has not been materially altered and would be admissible at a future hearing, and (4) whether there is a reasonable probability that the sentenced defendant would have been acquitted or would have received a lesser sentence if the DNA evidence had been admitted at trial.
8. Any adversely affected party may take an appeal from the order entered on the motion. An order denying relief may be appealed within 30 days after the order denying relief is entered. You may file for a rehearing within 15 days after the service of the order denying the motion. The time for filing an appeal shall be tolled until an order on the rehearing has been entered.
9. Reference Sections 925.11 and 943.3251, Florida Statutes (October 1, 2001)

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT
IN AND FOR _____ COUNTY, FLORIDA

STATE OF FLORIDA,

CRIMINAL DIVISION

v.

CASE NO: _____

_____/

MOTION FOR DNA EVIDENCE EXAMINATION

The defendant is a person who has been tried and found guilty or has entered a plea of guilty or nolo contendere before a court established by the Laws of Florida, and now moves this Honorable Court, under Section 925.11, Florida Statutes (October 1, 2001), to order the examination of physical evidence collected at the time of the investigation of the crime that may contain DNA (deoxyribonucleic acid) and that would exonerate the defendant or mitigate the sentence that the defendant received. As grounds for this motion, the defendant states:

1. Name and location of the court which has jurisdiction over the physical evidence to be examined under this motion:

2. Date of judgement of conviction: _____

3. Length of sentence: _____

4. _____

5. What was your plea? (check one only)

(a) Not Guilty ☐

(b) Guilty ☐

(c) Nolo Contendere ☐

(d) Not guilty by reason of insanity ☐

If you entered a plea to one count and a different plea to another count, give the details.

6. Kind of trial (check only one):

(a) Jury ☐

(b) Judge without jury ☐

7.