

Amended by Order dated June 21, 2013; effective July 1, 2013.

RULES OF SUPREME COURT OF VIRGINIA
PART FIVE
THE SUPREME COURT
APPENDIX OF FORMS

Form 12. Petition for a Writ of Actual Innocence

PETITION FOR A WRIT OF ACTUAL INNOCENCE

TO THE SUPREME COURT OF VIRGINIA

In re: _____
(FULL NAME OF PETITIONER)

Record No. _____
(TO BE SUPPLIED BY THE CLERK OF THE SUPREME COURT)

(PRISONER NO., IF APPLICABLE)

Circuit Court
Case No.(s) _____

(PETITIONER'S ADDRESS)

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

NAME OF PETITIONER

hereby petition this Court for a writ of actual innocence. In support of this petition, I state under oath that the following information is true:

1. On _____, I was convicted **or adjudicated delinquent** in the
DATE

_____ Circuit Court of the following offense(s):
NAME OF COURT

Description of Offense	Virginia Code	Class of Felony	Plea
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

[] ATTACHED ADDITIONAL SHEET(S)

2. I am innocent of the ~~crime~~ offense(s) for which I was convicted or adjudicated delinquent.

3. My claim of innocence is based upon the following human biological evidence and scientific testing:

_____ [] ATTACHED ADDITIONAL SHEET(S)

4. Check one:

[] This evidence was not known or available to either me or my attorney at the time the conviction or adjudication of delinquency became final in the circuit court.

[] This evidence was known at the time the conviction or adjudication of delinquency became final in the circuit court, but was not tested because:

_____ [] ATTACHED ADDITIONAL SHEET(S)

5. This evidence was tested pursuant to the provisions of Virginia Code § 19.2-327.1 and the results were obtained by me or my attorney on _____.

DATE

This petition is filed within sixty days of obtaining those results and those test results are filed with this petition. Attached is a copy of the notice of the test results from the Department of Forensic Science.

6. The scientific evidence described in paragraph number 4 above will prove that no rational trier of fact ~~could~~ would have found me to be guilty or delinquent beyond a reasonable doubt of the charge described above because

_____ [] ATTACHED ADDITIONAL SHEET(S)

7. Check box if applicable and provide any additional information.

[] My conviction or adjudication of delinquency became final after June 30, 1996, and the scientific evidence described in paragraph number 4 above was not available for testing under Virginia Code § 9.1-1104 because:

_____ [] ATTACHED ADDITIONAL SHEET(S)

8. This petition contains all relevant allegations of fact known to me at this time and all previous records, applications, petitions, appeals, and dispositions relating to this matter are attached. In support of this petition, the following documents are attached:

[] ATTACHED ADDITIONAL SHEET(S)

9. I understand that this petition must contain all relevant allegations of fact that are known to me at this time. 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 test results of the scientific evidence described above. 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. I understand that I am responsible for all statements contained in this petition. I understand that any knowingly or willfully made false statement shall be a ground for prosecution and conviction of perjury as provided in Virginia Code § [18.2-434](#). I understand that this Court shall not accept this petition unless it is accompanied by a duly executed return of service verifying that a copy of this petition and all attachments have been served on the attorney for the Commonwealth of the jurisdiction where the conviction occurred and on the Attorney General of Virginia.

10. Check box 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 and I have attached the completed affidavit to this effect.

Based on the above, I petition this Court pursuant to the provisions of Chapter 19.2 of Title 19.2 of the Code of Virginia for a writ of actual innocence.

DATE	SIGNATURE OF PETITIONER
FOR NOTARY PUBLIC'S USE ONLY:	
State of [] City [] County of	
Acknowledged, subscribed and sworn to before me this day of, 20	
..... NOTARY REGISTRATION NUMBER NOTARY PUBLIC (My commission expires:)

AFFIDAVIT IN FORMA PAUPERIS

The petitioner, _____, being duly sworn, says,

1. I am unable to pay for counsel to prosecute this action;
2. My assets amount to a total of \$ _____

DATE

SIGNATURE OF PETITIONER

FOR NOTARY PUBLIC'S USE ONLY:

State of [] City [] County of

Acknowledged, subscribed and sworn to before me this day of, 20

.....
NOTARY REGISTRATION NUMBER

NOTARY PUBLIC
(My commission expires:)