



**CONVICTION REVIEW UNIT  
PETITION FOR  
CONVICTION REVIEW**

**MICHAEL J. SATZ  
STATE ATTORNEY**

Complete this form to apply to our office to have a conviction reviewed. All information must be provided. Please provide copies of any documents that support your application. Do not send original documents or your only copy of any documents. This form and supporting documents may be mailed to:

Office of the State Attorney  
17th Judicial Circuit  
Attn: Conviction Review Unit  
201 SE 6th St., Suite 07130  
Fort Lauderdale, FL 33301-3360

(Where "petitioner" is indicated, provide defendant information. A section has been provided for additional information if the applicant is not the petitioner/defendant).

**The Conviction Review Unit of The Broward State Attorney's Office will review cases that meet the following criteria:**

1. The conviction must have occurred in the 17th Judicial Circuit of Florida (Broward County).
2. The case must have been prosecuted by the Broward State Attorney's Office. (Cases prosecuted by the Office of Statewide Prosecution or by the federal government are not eligible for review by this office).
3. The petitioner must present a claim of actual innocence (he/she did not commit or participate in the crime).
4. The conviction must be of a felony with the highest priority of review for individuals who are incarcerated and have been convicted of serious felonies.
5. The claim must be supported by information or evidence not previously litigated before the original trier of fact (judge or jury).
6. The claim must be capable of being investigated and resolved, and if substantiated, would bear directly on the issue of innocence.
7. The conviction must be in the procedural posture that the direct appeal has become final, post-conviction motions have already been ruled on, and there is no pending litigation.
8. The claim must be dispositive and not frivolous.
9. The Conviction Review Unit (CRU) does not review lawful sentences.
10. The CRU gives less weight to affirmative defenses, claims, or information/evidence that was previously litigated before the original finder of fact (judge or jury).
11. Acknowledgment of receipt of the petition by the State Attorney's Office does not indicate acceptance of the case for investigation, or the validity of the claim of innocence.
12. A plea of guilty is not a bar to review, but will be subjected to a higher level of scrutiny.

**Important: The State Attorney's Office cannot provide legal advice. Please consult with an attorney prior to submitting a petition if you need assistance or have any questions regarding anything contained in this petition. If you are currently represented by an attorney, the CRU will only communicate with your attorney. You should consult your attorney prior to submitting your petition.**

**Initial each statement below to indicate your understanding and agreement:**

Acknowledgment of receipt of the petition by the State 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 file 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 a declination by the CRU. All decisions made by the CRU, including the decision to accept a petition regarding reopening a case investigation, as well as how the claim will be investigated and resolved, are at the sole discretion of the Broward State Attorney's Office.

I understand that the State Attorney's Office cannot provide legal advice, they do not represent me. The attorney-client privilege does not apply to any information I provide to the CRU in this form or any other communication.

**IF YOU ARE CURRENTLY 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.**

**PETITIONER/CONVICTED PERSON'S INFORMATION**

Date Completing Petition:

Primary Language:

Convicted Person's Name:

Date of Birth:

Florida DOC Number:

Convicted Person's Address/Location in DOC

Are you currently represented by an attorney?

Yes

No

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

Please list the names and contact information for your attorneys, starting with the most recent.  
*For additional entries, please use the blank pages found at the end of this petition. Pro Se, please indicate below.*

1.

2.

3.

**Important: If you are currently represented by an attorney, the CRU will only communicate with your attorney. Your attorney must submit this petition on your behalf.**

If this form is filled out by someone other than the Defendant/Petitioner, list your name, your relationship to the Defendant and contact information (phone, e-mail and mailing address).

### PETITIONER'S CASE INFORMATION

State Court Case Number:

Offenses of Conviction:

Date of Conviction:

Sentence Received

How were you convicted?

Jury Trial

Bench Trial (Judge Only)

Guilty Plea

What is the basis for your petition for review? (*check all that apply*)

Actual innocence (I did not commit the crime) and

The witness/informant has recanted or changed their testimony.

I have an alibi (please provide contact information below).

I have newly discovered evidence (please explain below).

There is DNA in my case that was not tested.

There is an issue with the scientific evidence or expert witness (please explain below).

The police officer in my case has been arrested.

Name of officer and badge number:

How do you believe this impacts your case?

Other (please provide more detail below)

Additional space for the basis of the petition:

Did you give a statement to the police?	Yes	No
Did you 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 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:

Has the Petitioner filed a 3.853 motion for DNA testing pursuant to Florida Statute, Section 925.11?

Yes                      No

If yes, please provide status information.

Have you contacted an innocence organization/project about your case?

Yes                      No

If yes, which organization and have they started an investigation into your case?

Explain in detail why you are innocent.

*If necessary, please use the blank paper found at the end of this petition.*

How were you wrongfully convicted?

*If necessary, please use the blank paper found at the end of this petition.*

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

Finally, provide any other information you think would be helpful in reviewing your case. Include contact information (name, phone numbers, addresses and e-mail) for any person you think could provide information that could assist in your claims or verify 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.

Under penalties of perjury, I declare that I have read the foregoing petition and that the facts stated in it are true.

Date: February 18, 2020

\_\_\_\_\_  
Signature of Claimant/Declarant

\_\_\_\_\_  
Type/Print Name

**Submitting the form via U.S. Mail:**

**You can save and print this application and mail directly to the CRU along with other documents to the following address:**

Office of the State Attorney  
Seventeenth Judicial Circuit  
Attn: Conviction Review Unit  
201 SE 6th St., Ste, 07130  
Fort Lauderdale, FL 33301-3360

**Submitting the form via email:**

You can save this form and submit it directly to the office by clicking the button below. Please send any other supporting documents to convictionreview@sao17.state.fl.us with the defendant's name in the subject line or by clicking the below button (using your default email client)

**Please note that your petition may be subject to Florida public records laws. Also, please note that under Florida law, email addresses are public records. If you do not want your email address released in response to a public records request, do not submit this form via email. Instead, download this form and mail it to the address above.**

## **ADDITIONAL RELEVANT FACTS IN SUPPORT OF DEFENDANT'S INNOCENCE**

### **a. Identification Of The Defendant Is A Disputed Issue In This Case.**

The victim in this case, Denise Wood, testified at trial that she could not identify the Defendant as the assailant. On the night of the alleged crime, the victim reported to law enforcement officers that her assailant was in his early 20's, between five foot seven and five foot eight inches tall, stocky at about 160 lbs., wearing short hair and with a slight Hispanic accent. Significantly, the victim reported that her assailant was circumcised. (While the prosecutor tried to downplay the significance of this crucial identification feature, the fact remains that the victim was clearly aware of the difference between circumcised and uncircumcised penises, because she had recently dated men who were uncircumcised). The victim was forced to masturbate, bring into erection and perform oral sex on the assailant. In 1995 the Defendant was 31-years old, five foot ten inches tall, about 180-lbs wearing long hair, a very strong Hispanic accent and most significantly, he was not circumcised. Moreover, all fingerprints, palm prints, shoe castings and other prints collected at the points of entry and exit did not match that of the Defendant. Clearly, all doubts extended to the Defendant by the apparent lack of direct inculpatory evidence was overcome here by the damaging impact of BSO Crime Lab DNA technician Donna Marchese's DNA test results obtained from the green fitted sheet and the BSO Crime Lab DNA consultant, Dr. Martin Tracey corroborating these facts.

### **b. Unrefuted Defense Presented At Trial**

Although the Defendant did not testify, he maintained his innocence throughout trial. The Defendant had surgery four days before the victim in this case was assaulted. At trial, the Defense presented the testimony of the Defendant's physician, Dr. Guy Durand, who testified that it would have been physically impossible for the Defendant to commit the crime without causing stitches to tear, and without causing further trauma to injuries he received as the result of his surgery. (See: T.T. 1092-1107 at <https://helpdnablog.files.wordpress.com/2018/05/trial-transcripts-vol-7.pdf>) The Defendant also presented the alibi witness testimony of Paula Turgeon, who told the jury that he was in bed rest, with her, and under pain medication at her house, 20-miles away from the crime scene, at the time the crime was being committed. Thus, making it impossible for him to be in two different places at the same time.

(See: T.T. 1149-1151 at <https://helpdnablog.files.wordpress.com/2018/05/trial-transcripts-vol-8.pdf>)

The defense asserted also that the State had less DNA oral swabs from the Defendant than they claimed to have had. The State claimed to have four (4). The Defendant's position was that they could only have had two because only two were taken in 1995 by the Miami-Dade Metropolitan Police Department and no other DNA was ever swabbed or taken from him at any other time thereafter. (See: T.T. 988-989 at <https://helpdnablog.files.wordpress.com/2018/05/trial-transcripts-vol-7.pdf>)

Therefore, the defense asserted that the State's claim, that they had four oral swabs available at the time of trial, was false. The defense alleged probable tampering with the DNA evidence. This remains unrefuted. The mysterious appearance of additional swabs was never clarified and, when argued on appeal, the appellate court explained it away as a mistake and affirmed with a written opinion. See: *Behrens v. State*, 830 So.2d 190 (Fla. 4th DCA 2002); or download directly at: (<https://helpdnablog.files.wordpress.com/2020/02/02.4-courts-opinion.pdf>)

### **c. Unreliability Of Law Enforcement's Dna Evidence Chain Of Custody.**

1. The Evidence Collected By The CSI Officer At The Crime Scene On May 12, 1995 at 5:00 am Was Not Logged Into The PPD Evidence Room Until May 15, 1995 at 11:15 a.m.
2. The Sole Incupatory Evidence In This Case (The Green Fitted Sheet) Was Not Logged Into The BSO Crime Lab Evidence Vault On June 30, 1995, as Testified By BSO Crime Lab Technician, Donna Marchese, During Her Trial Testimony And as Shown On The Chain Of Custody Property Receipt.
3. The Sole Inculpayory Evidence In This Case (The Green Fitted Sheet) Was Not Logged Into The BSO Crime Lab Evidence Vault On February 1, 2000 as Shown On The PPD Chain Of Custody Property Receipt.

For easy access to these subtitles in the Motion 3.850 (pages 10-17), visit:

<https://helpdnablog.files.wordpress.com/2019/05/10.14-second-amemded-motion-3.850.pdf>

### **d. Probability of planting/tampering with DNA evidence at BSO Crime Lab.**

On March 10, 2017, the State responded to the Defendant's "Motion to Compel The State To Disclose The Existence, Location, And Availability Of The Physical Evidence Collected In This Case, Which Are Indispensable For DNA Testing". Within all the documents received from the State, five (5) pages have never before been disclosed to the Defendant. This information revealed to the Defendant the amazing fact that the victim's DNA profile was not found on the green fitted sheet. See in the Motion 3.850 (Exhibit F), visit:

<https://helpdnablog.files.wordpress.com/2019/05/10.14-second-amemded-motion-3.850.pdf>

The Defendant was dumbfounded by this new information because he and his attorneys were led to believe that based on Ms.Wood's multiple testimonies, where she stated that she slept nude and alone for over two weeks on the sheets, where the alleged stain containing DNA was found, this case then, should have contained without a doubt, a mixture of DNA which should have revealed traces of her own DNA profile.

It is unimaginable for the victim's fitted sheet not to have contained, at minimum, a mixture of DNA revealing her own profile. Therefore, the following scenario should be explored:

Was the genetic material on the victim's green fitted sheet degraded or contaminated to the point where it contains no readable DNA profile?

Was the victim's green fitted sheet tampered with while in possession of law enforcement personnel?

Were the BSO Crime Lab DNA analysis practice incorrect in this case?

Was the genetic material allegedly found on the victim's green fitted sheet planted at the BSO Crime Lab?

### **How were you wrongfully convicted? (continue from page 5)**

Due process and fundamental notions of fairness and justice require that the Defendant be afforded a new trial and an opportunity to present the combined newly discovered evidence to a jury; alternatively, the Defendant should be afforded a new trial where the state is precluded from relying on the false scientific evidence that was presented at his original trial.