



**DAVE YOST**

OHIO ATTORNEY GENERAL

**IN THE COURT OF COMMON PLEAS OF \_\_\_\_\_ COUNTY, OHIO**

**State of Ohio,**

**Plaintiff,**

**Case No. \_\_\_\_\_**

**v.**

\_\_\_\_\_  
**(Name)**

**Defendant.**

**APPLICATION FOR DNA TESTING**

Inmate Number \_\_\_\_\_

Address where currently incarcerated \_\_\_\_\_  
\_\_\_\_\_

For what offense or aggravating circumstance are you requesting a DNA test? \_\_\_\_\_  
\_\_\_\_\_

Date of Conviction \_\_\_\_\_

Sentence \_\_\_\_\_

If you are serving a sentence of incarceration, how much time is remaining on your sentence? \_\_\_\_\_

Were you convicted as a result of a: Jury Trial? \_\_\_\_\_ Judge Trial? \_\_\_\_\_ Plea of Guilty or No Contest? \_\_\_\_\_

What defense was presented in your case at the time of your plea or trial? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

What evidence should be tested for DNA? \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Was this DNA evidence collected? \_\_\_\_\_

Where was this DNA evidence found? \_\_\_\_\_

Was this DNA evidence used by the prosecution in your case? \_\_\_\_\_

Did the prosecution claim it was your DNA? \_\_\_\_\_

Would testing prove that it was not your DNA? \_\_\_\_\_

Explain why a DNA test would have changed the outcome of your case. (Be specific): \_\_\_\_\_

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(Use Additional Sheets if Necessary. Pursuant to Section 2953.73 of the Revised Code, you may attach supporting affidavits and/or documents.)

\_\_\_\_\_

Date

\_\_\_\_\_

Inmate Signature

**ACKNOWLEDGEMENT**

In order for your application to be considered, you must sign this acknowledgement. By signing the acknowledgement, you acknowledge and agree to all of the following:

- (1) That sections 2953.71 to 2953.81 of the Revised Code contemplate applications for DNA testing of eligible inmates at a stage of a prosecution or case after the inmate has been sentenced to a prison term or a sentence of death, that any exclusion or inclusion result of DNA testing rendered pursuant to those sections may be used by a party in any proceeding as described in section 2953.81 of the Revised Code, and that all requests for any DNA testing made at trial will continue to be handled by the prosecuting attorney in the case;
- (2) That the process of conducting postconviction DNA testing for an eligible inmate under sections 2953.71 to 2953.81 of the Revised Code begins when the inmate submits an application under section 2953.73 of the Revised Code and the acknowledgment described in this section;
- (3) That the eligible inmate must submit the application and acknowledgment to the court of common pleas that heard the case in which the inmate was convicted of

the offense for which the inmate is an eligible offender and is requesting the DNA testing;

- (4) That the state has established a set of criteria set forth in section 2953.74 of the Revised Code by which eligible inmate applications for DNA testing will be screened and that a judge of a court of common pleas upon receipt of a properly filed application and accompanying acknowledgment will apply those criteria to determine whether to accept or reject the application;
- (5) That the results of DNA testing conducted under sections 2953.71 to 2953.81 of the Revised Code will be provided as described in section 2953.81 of the Revised Code to all parties in the postconviction proceedings and will be reported to various courts;
- (6) That, if DNA testing is conducted with respect to an inmate under sections 2953.71 to 2953.81 of the Revised Code, the state will not offer the inmate a retest if an inclusion result is achieved relative to the testing and that, if the state were to offer a retest after an inclusion result, the policy would create an atmosphere in which endless testing could occur and in which postconviction proceedings could be stalled for many years;
- (7) That, if the court rejects an eligible inmate's application for DNA testing because the inmate does not satisfy the acceptance criteria described in paragraph (4) above, the court will not accept or consider subsequent applications;
- (8) That the acknowledgment memorializes the provisions of sections 2953.71 to 2953.81 of the Revised Code with respect to the application of postconviction DNA testing to inmates, that those provisions do not give any inmate any additional constitutional right that the inmate did not have prior to the effective date of those provisions, that the court has no duty or obligation to provide postconviction DNA testing to inmates, that the court of common pleas has the sole discretion subject to an appeal as described in this division to determine whether an inmate is an eligible inmate and whether an eligible inmate's application for DNA testing satisfies the acceptance criteria described in paragraph (4) above and whether the application should be accepted or rejected, that if the court of common pleas rejects an eligible inmate's application, the inmate may seek leave of the supreme court to appeal the rejection to that court if the inmate was sentenced to death for the offense for which the inmate is requesting the DNA testing and, if the inmate was not sentenced to death for that offense, may appeal the rejection to the court of appeals, and that no determination otherwise made by the court of common pleas in the exercise of its discretion regarding the eligibility of an inmate or regarding postconviction DNA testing under those provisions is reviewable by or appealable to any court;
- (9) That the manner in which sections 2953.71 to 2953.81 of the Revised Code with respect to the offering of postconviction DNA testing to inmates are carried out does not confer any constitutional right upon any inmate, that the state has established guidelines and procedures relative to those provisions to ensure that

they are carried out with both justice and efficiency in mind, and that an inmate who participates in any phase of the mechanism contained in those provisions, including, but not limited to, applying for DNA testing and being rejected, having an application for DNA testing accepted and not receiving the test, or having DNA testing conducted and receiving unfavorable results, does not gain as a result of the participation any constitutional right to challenge, or, except as provided in paragraph (8) above, any right to any review or appeal of, the manner in which those provisions are carried out;

- (10) That the most basic aspect of sections 2953.71 to 2953.81 of the Revised Code is that, in order for DNA testing to occur, there must be an inmate sample against which other evidence may be compared, that, if an eligible inmate's application is accepted but the inmate subsequently refuses to submit to the collection of the sample of biological material from the inmate or hinders the state from obtaining a sample of biological material from the inmate, the goal of those provisions will be frustrated, and that an inmate's refusal or hindrance shall cause the court to rescind its prior acceptance of the application for DNA testing for the inmate and deny the application;
- (11) That, if the inmate is an inmate who pleaded guilty or no contest to a felony offense and who is using the application and acknowledgment to request DNA testing under section 2953.82 of the Revised Code, all references in the acknowledgment to an "eligible inmate" are considered to be references to, and apply to, the inmate and all references in the acknowledgment to "sections 2953.71 to 2953.81 of the Revised Code" are considered to be references to "section 2953.82 of the Revised Code".

\_\_\_\_\_  
Date

\_\_\_\_\_  
Inmate Signature

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of this Application for DNA Testing including Acknowledgement was mailed by regular United States mail, postage prepaid, to the Prosecutor of \_\_\_\_\_ County, at the following address: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ and to Ohio Attorney General, Criminal Justice Section, 30 East Broad Street, 23<sup>rd</sup> Floor, Columbus, Ohio 43215, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Inmate Signature