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PROTECTING OUR COMMUNITY SINCE 1850

Conviction Review Request Process and Procedure

I. Introduction

It is the responsibility of the Post-Conviction Review Unit (PCRU) to review claims of actual innocence by petitioners convicted of a crime by the San Joaquin County District Attorney's (SJCD) Office.

Conviction review is an informal, petitioner-initiated review process that precedes a petition for writ of habeas corpus or similar petition (Penal Code section 1473 et seq.).

The PCRU will review convictions upon proper request from a petitioner. Should a petitioner's request be meritorious, the SJCD's Office will join a petitioner's subsequent petition for writ of habeas corpus seeking to motion to vacate their judgment of conviction.

II. Mission Statement

The San Joaquin County District Attorney's Office is committed to ensuring the integrity of its convictions. No innocent person should be convicted or incarcerated. Nor should any person be convicted based in whole or part by materially false or defective evidence. It is the goal of this Office and the PCRU to review these claims in a fair and independent manner in the ultimate pursuit of the truth and justice.

III. Eligibility for Review

In order for the PCRU to conduct a review of a conviction, a petitioner making a claim must meet the following prerequisites:

1. The petitioner must have been convicted in San Joaquin County.
2. The petitioner was convicted of a felony. Priority review will be given to 1) petitioners who allege actual innocence based on new evidence 2) petitioners who are currently incarcerated; and, 3) petitioners who are convicted of a serious or violent felony. All other felonies will be given the lowest priority.
3. The petitioner must assert a claim of actual innocence or that false evidence was knowingly used to convict them.

4. The petitioner's assertion of such a claim must be accompanied by newly discovered evidence. In other words, evidence must be something that has been discovered after trial, that could not have been discovered prior to trial by the exercise of due diligence.
 - a. Cases claiming ineffective assistance of defense counsel, trial error, prosecutorial error or general misconduct are not bases for review.
5. The petitioner's appeals must be final and there can be no pending habeas corpus petitions.

IV. Petition for Review

1. If a petitioner meets the above criteria, they must fill out the form provided on the Post-Conviction Review Unit web page. (<https://www.sjgov.org/da/pcru>)

The request must be accompanied by all referenced exhibits and witness declarations. The form must include a declaration signed under penalty of perjury. If the form is incomplete or the declaration is not signed, the request for review will be rejected.

2. The guidelines for review are based on Penal Code §§1473, 1473.6 and 1473.7. These sections are the only way a petitioner can make this type of claim and have the conviction vacated.
3. These sections require a petitioner claim actual innocence or that they were convicted by materially false evidence (testimonial or physical) and that newly discovered evidence points to their actual innocence.

The evidence must be material; it cannot be merely "cumulative, corroborative, collateral, or impeaching."
4. The newly discovered evidence must be credible, verifiable, admissible, and timely presented.

IV. Review Process

1. When the petitioner has completed the form provided, signed the declaration, and provided current contact information, the petitioner should send the form to the PCRU. A mail address is provided on the form.
2. Once the request is received by the PCRU, the petitioner will be notified that the request was received and it will go through an intake process.
3. After an initial review, if the petitioner is eligible and the request form has been properly completed, the case will be investigated by the PCRU. This will take time. The more information provided in the beginning by the petitioner, the quicker a request can be reviewed.

4. Once an investigation and review is concluded by the PCRU, a recommendation will be made. If the petitioner's claim is denied, a letter to that effect will be sent to the petitioner or their legal representative.

If the PCRU finds the petitioner's claim has merit; a recommendation will be made to the District Attorney to accept the petitioner's claim. If the District Attorney agrees, petitioner or their legal representative will be notified.

5. On acceptance of a petitioner's claim and the petitioner has no legal representative, the PCRU will make efforts to assist the petitioner in contacting an appropriate legal aid organization in order to seek representation for the petitioner.

The District Attorney's Office cannot represent a petitioner or file any writ or motion on their behalf. The District Attorney's Office and PCRU will, however, provide its investigation to a legal representative of the petitioner with an intent to file a "no opposition" to the petitioner's ultimate writ or motion based on our findings.