
18 U.S. Code § 3600

DNA testing

(a) **In General.**—Upon a written motion by an individual sentenced to imprisonment or death pursuant to a conviction for a Federal offense (referred to in this section as the “applicant”), the court that entered the judgment of conviction shall order DNA testing of specific evidence if the court finds that all of the following apply:

- (1) The applicant asserts, under penalty of perjury, that the applicant is actually innocent of—
 - (A) the Federal offense for which the applicant is sentenced to imprisonment or death; or
 - (B) another Federal or State offense, if—
 - (i) evidence of such offense was admitted during a Federal sentencing hearing and exoneration of such offense would entitle the applicant to a reduced sentence or new sentencing hearing; and
 - (ii) in the case of a State offense—
 - (I) the applicant demonstrates that there is no adequate remedy under State law to permit DNA testing of the specified evidence relating to the State offense; and
 - (II) to the extent available, the applicant has exhausted all remedies available under State law for requesting DNA testing of specified evidence relating to the State offense.
- (2) The specific evidence to be tested was secured in relation to the investigation or prosecution of the Federal or State offense referenced in the applicant’s assertion under paragraph (1).
- (3) The specific evidence to be tested—
 - (A) was not previously subjected to DNA testing and the applicant did not knowingly fail to request DNA testing of that evidence in a prior motion for postconviction DNA testing; or
 - (B) was previously subjected to DNA testing and the applicant is requesting DNA testing using a new method or technology that is substantially more probative than the prior DNA testing.
- (4) The specific evidence to be tested is in the possession of the Government and has been subject to a chain of custody and retained under conditions sufficient to ensure that such evidence has not been substituted, contaminated, tampered with, replaced, or altered in any respect material to the proposed DNA testing.
- (5) The proposed DNA testing is reasonable in scope, uses scientifically sound methods, and is consistent with accepted forensic practices.
- (6) The applicant identifies a theory of defense that—
 - (A) is not inconsistent with an affirmative defense presented at trial; and
 - (B) would establish the actual innocence of the applicant of the Federal or State offense referenced in the applicant’s assertion under paragraph (1).

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