

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

APPLICATION FOR A WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2254
BY A PERSON IN STATE CUSTODY

Michael C. Skakel, #301382
_____, Petitioner,

Full Name and Prisoner Number

MacDougall Correctional Institution

Complete Prison Address (Place of Confinement)

1153 East Street South

Suffield, CT 06078

Case No. _____
(To be supplied
by the Court)

v.

Peter J. Murphy
_____, Respondent,

(Name of Warden or authorized person
having custody of petitioner)

(Do not use *et al.*)

and

_____, Additional Respondent.

(List additional persons having custody
of petitioner, if any)

Note: If the applicant is challenging a judgment which imposed a sentence to be served in the future, applicant must fill in the name of the state where the judgment of conviction was entered. If the applicant has a sentence to be served in the future under a federal judgment, which he/she wishes to challenge, he/she should file a motion under 28 U.S.C. § 2255, in the federal court which entered the judgment.

CONVICTION BEING CHALLENGED

- 1) Name and location of the court which entered the judgment of conviction you are challenging Connecticut Superior Court, Judicial District of
Stamford/Norwalk
- 2) Date judgment of conviction was entered June 7, 2002
- 3) Case number (in state court) CR-00-135792T
- 4) Type and length of sentence imposed 20 years to life
- 5) Nature of the offense involved (all counts) murder

- 6) What was your plea? (check one)
Not Guilty Guilty Nolo Contendere
- 7) If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, what did you plead guilty to and what did you plead not guilty to: n/a

- 8) If you entered a plea of guilty pursuant to a plea bargain, state the terms and conditions of the agreement n/a

- 9) Kind of trial (check one) Jury Judge only
- 10) Did you testify at trial? Yes No

DIRECT APPEAL

11) Did you appeal from the judgment of conviction? Yes No

12) If you did not appeal, explain briefly why you did not: n/a

(a) Did you seek permission to file a late appeal? Yes No

13) If you did appeal, answer the following:

(a) Name of court: Connecticut Supreme Court

(b) Docket number (if you know): S.C. 16844

(c) Result (attach a copy if you have one): Affirmed

(d) Date of result (if you know): January 24, 2006

(e) Citation to the case (if you know): 276 Conn. 633 (2006)

(f) Grounds raised: See attached sheets.

14) If your appeal was denied by the Connecticut Appellate Court, did you file a petition for certification with the Connecticut Supreme Court? Yes No

15) If you sought certification, answer the following: n/a

(a) Date of decision (if you know): _____

(b) Citation to the case (if you know): _____

(c) Grounds raised (or attach a copy of the petition for certification if you have

one): _____

- 16). Did you file a petition for certiorari in the United States Supreme Court?
Yes No

If yes, answer the following:

(a) Docket number (if you know): 06-52

(b) Result: The Petition for Writ of Certiorari was denied.

(c) Date of result (if you know): November 13, 2006

(d) Citation to the case (if you know): 127 S.Ct. 578 (2006)

(e) Grounds raised: Whether a State violates the Due Process Clause of
the Fourteenth Amendment when its highest court unexpectedly overrules
its own binding interpretation of one of its statutes in order to authorize
a criminal prosecution that the passage of time had previously barred.

POST-CONVICTION PROCEEDINGS

17) Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any state court? Yes No

18) If your answer to Question 17 was "Yes," give the following information:

(a) FIRST petition, application or motion.

(1) Name of court: Connecticut Superior Court,
Judicial District of Stamford/Norwalk

(2) Docket number (if you know): CV-05-4006524S

(3) Nature of proceeding: Petition for New Trial

(4) Grounds raised: See attached sheets.

(5) Did you receive an evidentiary hearing on your petition, application or motion? Yes No

(6) Result: The petition was denied.

(7) Date of result (if you know): October 25, 2007

(8) Did you appeal the result to the highest state court having jurisdiction? Yes No

If you did appeal, give the name of the court where the appeal was filed, the result, the case number, citation and date of the court's decision (or attach a copy of the court's opinion or order)

Appeal has not yet been filed.

(9) If you did not appeal, briefly explain why you did not: _____

(10) If your appeal was decided by the Connecticut Appellate Court, did you file a petition for certification to appeal the decision to the Connecticut Supreme Court? Yes ___ No ___

(11) If you sought certification, give the citation and date of the court's decision or attach a copy of the decision. Also attach a copy of the petition for certification or list the issues for which certification was sought.

(b) As to any SECOND petition, application or motion, give the following information:

(1) Name of court: n/a

(2) Docket number (if you know): _____

(3) Nature of proceeding: _____

(4) Grounds raised: _____

(5) Did you receive an evidentiary hearing on your petition, application or motion? Yes ___ No ___

(6) Result: _____

(7) Date of result (if you know): _____

(8) Did you appeal the result to the highest state court having jurisdiction? Yes ___ No ___

If you did appeal, give the name of the court where the appeal was filed,

the result, the case number, citation and date of the court's decision (or attach a copy of the court's opinion or order)

(9) If you did not appeal, briefly explain why you did not: _____

(10) If your appeal was decided by the Connecticut Appellate Court, did you file a petition for certification to appeal the decision to the Connecticut Supreme Court? Yes ___ No ___

(11) If you sought certification, give the citation and date of the court's decision or attach a copy of the decision. Also attach a copy of the petition for certification or list the issues for which certification was sought.

c) As to any THIRD petition, application or motion, give the following information:

(1) Name of court: n/a

(2) Docket number (if you know): _____

(3) Nature of proceeding: _____

(4) Grounds raised: _____

(5) Did you receive an evidentiary hearing on your petition, application or motion? Yes ___ No ___

(6) Result: _____

(7) Date of result (if you know): _____

(8) Did you appeal the result to the highest state court having jurisdiction? Yes ___ No ___

If you did appeal, give the name of the court where the appeal was filed, the result, the case number, citation and date of the court's decision (or attach a copy of the court's opinion or order)

(9) If you did not appeal, briefly explain why you did not: _____

(10) If your appeal was decided by the Connecticut Appellate Court, did you file a petition for certification to appeal the decision to the Connecticut Supreme Court? Yes ___ No ___

(11) If you sought certification, give the citation and date of the court's decision or attach a copy of the decision. Also attach a copy of the petition for certification or list the issues for which certification was sought.

CLAIMS

- 19) State concisely every ground on which you claim that you are being held in violation of the Constitution, laws or treaties of the United States. Summarize briefly the **facts** supporting each claim. If necessary, you may attach extra pages stating additional claims and supporting facts. You should raise in this petition all claims for relief which relate to the conviction being challenged.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available state court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

Ground One: See attached sheets.

(a) Supporting Facts (Do not argue or cite law. Just briefly state the facts that support your claim): _____

See attached sheets.

(b) If you did not exhaust your state court remedies on Ground One, briefly explain why: n/a

(c) Direct Appeal of Ground One:

(1) If you appealed from the judgment of conviction, did you raise this issue? Yes X No _____

(2) If you did **not** raise this issue in your direct appeal, briefly explain why: _____

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for

habeas corpus in a state trial court? Yes _____ No X

(2) If your answer to Question (d)(1) is "Yes," state the type of motion or petition, the name and location of the court where the motion or petition was filed, the case number (if you know), the date of the court's decision, and the result. Attach a copy of the court's opinion or order, if available:

(3) Did you receive a hearing on your motion or petition?

Yes _____ No _____

(4) Did you appeal from the denial of your motion or petition?

Yes _____ No _____

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? Yes _____ No _____

(6) If your answer to Question (d)(5) is "Yes," state the name and location of the court where the appeal was filed, the case number (if you know), the date of the court's decision, and the result. Attach a copy of the court's opinion or order, if available: _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," briefly explain why you did not raise this issue: The issue was inappropriate

for a Petition for New Trial.

(e) Other Remedies: Describe any other procedures, such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One: n/a

Ground Two: See attached sheets.

(a) Supporting Facts (Do not argue or cite law. Just briefly state the facts that support your claim): See attached sheets.

(b) If you did not exhaust your state court remedies on Ground Two, briefly explain why: _____

(c) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue? Yes No _____

(2) If you did **not** raise this issue in your direct appeal, briefly explain why: _____

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for

habeas corpus in a state trial court? Yes _____ No (see below*)

(2) If your answer to Question (d)(1) is "Yes," state the type of motion or petition, the name and location of the court where the motion or petition was filed, the case number (if you know), the date of the court's decision, and the result. Attach a copy of the court's opinion or order, if available:

*The Petitioner did raise a ground in his Petition for

New Trial regarding the sketch and the profile report, but the

claim was based upon a different legal argument than advanced herein.

(3) Did you receive a hearing on your motion or petition?
Yes _____ No _____

(4) Did you appeal from the denial of your motion or petition?
Yes _____ No _____

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? Yes _____ No _____

(6) If your answer to Question (d)(5) is "Yes," state the name and location of the court where the appeal was filed, the case number (if you know), the date of the court's decision, and the result. Attach a copy of the court's opinion or order, if available: _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," briefly explain why you did not raise this issue: The issue was
inappropriate for a Petition for New Trial.

(e) Other Remedies: Describe any other procedures, such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Two: n/a

Ground Three: See attached sheets. _____

(a) Supporting Facts (Do not argue or cite law. Just briefly state the facts that support your claim): See attached sheets. _____

(b) If you did not exhaust your state court remedies on Ground Three, briefly explain why: _____

(c) Direct Appeal of Ground Three:

(1) If you appealed from the judgment of conviction, did you raise this issue? Yes X No _____

(2) If you did **not** raise this issue in your direct appeal, briefly explain why: _____

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for

habeas corpus in a state trial court? Yes _____ No

(2) If your answer to Question (d)(1) is "Yes," state the type of motion or petition, the name and location of the court where the motion or petition was filed, the case number (if you know), the date of the court's decision, and the result. Attach a copy of the court's opinion or order, if available:

(3) Did you receive a hearing on your motion or petition?
Yes _____ No _____

(4) Did you appeal from the denial of your motion or petition?
Yes _____ No _____

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? Yes _____ No _____

(6) If your answer to Question (d)(5) is "Yes," state the name and location of the court where the appeal was filed, the case number (if you know), the date of the court's decision, and the result. Attach a copy of the court's opinion or order, if available: _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," briefly explain why you did not raise this issue: The issue was inappropriate
for a Petition for New Trial.

(e) Other Remedies: Describe any other procedures, such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three: n/a

Ground Four: See attached sheets.

(a) Supporting Facts (Do not argue or cite law. Just briefly state the facts that support your claim): See attached sheets.

(b) If you did not exhaust your state court remedies on Ground Four, briefly explain why: _____

(c) Direct Appeal of Ground Four:

(1) If you appealed from the judgment of conviction, did you raise this issue? Yes X No _____

(2) If you did **not** raise this issue in your direct appeal, briefly explain why: _____

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court? Yes _____ No

(2) If your answer to Question (d)(1) is "Yes," state the type of motion or petition, the name and location of the court where the motion or petition was filed, the case number (if you know), the date of the court's decision, and the result. Attach a copy of the court's opinion or order, if available:

(3) Did you receive a hearing on your motion or petition?
Yes _____ No _____

(4) Did you appeal from the denial of your motion or petition?
Yes _____ No _____

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? Yes _____ No _____

(6) If your answer to Question (d)(5) is "Yes," state the name and location of the court where the appeal was filed, the case number (if you know), the date of the court's decision, and the result. Attach a copy of the court's opinion or order, if available: _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," briefly explain why you did not raise this issue: The issue was inappropriate
for a Petition for New Trial.

(e) Other Remedies: Describe any other procedures, such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four: n/a

** Grounds Five and Six: see attached sheets for grounds and supportive facts. As to the other applicable questions, answers are the same as answers re: grounds One through Four.

1) Please answer these additional questions about the petition you are filing:

(a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction? Yes No

If your answer is "No," state which grounds have not been so presented and briefly give your reason(s) for not presenting them: _____

(b) Is there any ground in this petition that has not been presented in some state or federal court? If so, which ground or grounds have not been presented, and briefly state your reasons for not presenting them: No.

SUCCESSIVE APPLICATIONS

This court is required to dismiss any claim presented in a second or successive petition that the federal court of appeals has authorized to be filed unless the applicant shows that each claim satisfies the requirements of 28 U.S.C. § 2244, as amended by Title I of the Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. No. 104-132, § 106, 110 Stat. 1214 (Apr. 24, 1996).

21) Have you previously filed any type of petition, application or motion in a federal court regarding the conviction you challenge in this petition? Yes No

If "Yes," state the name and location of the court, the case number, the type of proceeding, the issue raised, the date of the court's decision, and the result for each petition, application or motion filed. Attach a copy of any court opinions or orders, if available: _____

- 22) If the answer to Question 21 is "Yes" and you are raising a claim that you did not presented in a prior federal petition, application or motion, have you obtained an order from the United States Court of Appeals for the Second Circuit authorizing this district court to consider this petition? Yes ___ No ___

If "Yes," please attach a copy of the order.

- 23) Do you have any petition or appeal **now pending** (filed and not decided yet) in any court, either state or federal, for the judgment you are challenging?
Yes _____ No (Appeal of denial of Petition for New Trial will be filed shortly.)

If "Yes," state the name and location of the court, the case number, the type of proceeding and the issues raised: _____

LEGAL REPRESENTATION

- 24) Give the name and address, if known, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing Michael C. Sherman, 27 Fifth Street, Stamford, CT 06905

(b) At arraignment and plea Michael C. Sherman, 27 Fifth Street, Stamford, CT 06905

(c) At trial Michael C. Sherman, 27 Fifth Street, Stamford, CT 06905

(d) At sentencing Hubert J. Santos and Hope C. Seeley, 51 Russ Street, Hartford, CT 06106 and Michael C. Sherman, 27 Fifth Street, Stamford, CT 06905

(e) On appeal Hubert J. Santos and Hope C. Seeley, 51 Russ St., Hartford, CT 06106 and Steven D. Ecker, 750 Main Street, Hartford, CT 06103

(f) In any post-conviction proceeding Hubert J. Santos and Hope C. Seeley, 51 Russ Street, Hartford, CT 06106

(g) On appeal from any adverse ruling in a post-conviction proceeding Hubert J. Santos and Hope C. Seeley, 51 Russ Street, Hartford, CT 06106

25) Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time? Yes _____ No X

26) Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes _____ No X

(a) If "Yes," give the name and location of the court that imposed the other sentence you will serve in the future: _____

(b) Give the date the other sentence was imposed: _____

(c) Give the length of the other sentence: _____

(d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the future? Yes _____ No _____

TIMELINESS OF PETITION

27) If the judgment of conviction you are challenging in this petition became final over one year ago, you must explain why the one-year statute of limitations as codified in 28 U.S.C. § 2244(d) does not bar your petition.¹

¹The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA"), as codified in 28 U.S.C. § 2244(d), provides in part that:

(1) A 1-year period of limitation shall apply to an application for writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The

n/a

8) Are you presently serving a sentence imposed for a conviction other than the conviction being challenged in this motion? Yes ___ No X

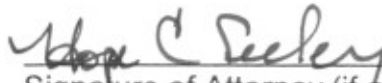
Wherefore, petitioner prays that the court grant him such relief to which he may be entitled in this proceeding.



Petitioner's Original Signature

301382

Petitioner's Inmate Number



Signature of Attorney (if any)
Hubert J. Santos, #00069
Hope C. Seeley, #04863
Sandra L. Snaden, #18586

Santos & Seeley, P.C.
51 Russ Street
Hartford, CT 06106
Tel. (860) 249-6548

limitation period shall run from the latest of-

- (A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;
- (B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such state action;
- (C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

(2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

