UNITED STATES DISTRICT COURT DISTRICT OF CONNECTICUT

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

Michael C. Skakel, #301382

Full Name and Prisoner Number

MacDougall Correctional Institution

Complete Prison Address (Place of Confinement)

1153 East Street South

Suffield, CT 06078

V.

Peter J. Murphy

______, Respondent,
(Name of Warden or authorized person having custody of petitioner)
(Do not use et al.)

(List additional persons having custody

, Additional Respondent.

§ 2255, in the federal court which entered the judgment.

and

of petitioner, if any)

Case No. 3:07CV1625 (PCD)
(To be supplied by the Court)

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.

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 enteredJune 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)				
6)	What was your plea? (check one) Not Guilty X 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 agreementn/a				
9)	Kind of trial (check one) Jury X Judge only				
10)	Did you testify at trial? Yes No X				

DIRECT APPEAL

1)	Did y	ou appeal from the judgment of conviction? Yes X No
2)	If you	u did not appeal, explain briefly why you did not:n/a
	(a)	Did you seek permission to file a late appeal? Yes No X_
3)		u 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.
	.,	
	_	
)		ur appeal was denied by the Connecticut Appellate Court, did you file a on for certification with the Connecticut Supreme Court? Yes No
)	If you	u 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 ha

	you file a petition for certiorari in the United States Supreme Court? X No
If ye	s, 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

POST-CONVICTION PROCEEDINGS

17)	previo	than a direct appeal from the judgment of conviction and sentence, have you ously filed any petitions, applications, or motions with respect to this judgment y state court? Yes \underline{X} No $\underline{\hspace{0.3cm}}$
18)	If you	r answer to Question 17 was "Yes," give the following information:
	(a)	FIRST petition, application or motion. Connecticut Superior Court
		(1) Name of 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 \underline{X} No $\underline{\hspace{0.3cm}}$
		(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 \underline{X} No $\underline{\ }$
		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)
		Connecticut Appellate Court, Docket No. A.C. 29363, the appea
		is still pending.
		(9) If you did not appeal, briefly explain why you did not:

(11)	If you sought certification, give the citation and date of the cou
decis	ion or attach a copy of the decision. Also attach a copy of the peti- tertification or list the issues for which certification was sou
101 0	ertification of list the issues for which certification was osc
As to nation:	any SECOND petition, application or motion, give the follow
(1)	Name of court:n/a
(2)	Docket number (if you know):
(3)	Nature of proceeding:
_(4)	Grounds raised:
	Did you receive an evidentiary hearing on your petition, applicat otion? Yes No
(5) or m	
. ,	Result:

		file a petition for certification to appeal the decision to the Connected eme Court? Yes No
	decis	If you sought certification, give the citation and date of the cosion or attach a copy of the decision. Also attach a copy of the pertification or list the issues for which certification was so
c)	As to	o any THIRD petition, application or motion, give the follo mation:
c)	inforr	o any THIRD petition, application or motion, give the follo mation: Name of court: _ ^{n/a}
c)	inforr	mation:
c)	inforr (1)	Name of court:n/a

(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

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.

Grou	und One: See attached sheets.
(a) supp	Supporting Facts (Do not argue or cite law. Just briefly state the facts that port your claim): See attached sheets.
(b) expla	If you did not exhaust your state court remedies on Ground One, briefly ain 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 No
	(2) If you did not raise this issue in your direct appeal, briefly explain

(1) Did you raise this habeas corpus in a st	issue through a post-conviction motion or petition for ate trial court? Yes No _X
petition, the name an was filed, the case no	Question (d)(1) is "Yes," state the type of motion or d location of the court where the motion or petition imber (if you know), the date of the court's decision, a copy of the court's opinion or order, if available:
(3) Did you receive Yes No	e a hearing on your motion or petition?
(4) Did you appea Yes No	from the denial of your motion or petition?
	to Question (d)(4) is "Yes," did you raise this issue es No
of the court where the date of the court's de	o Question (d)(5) is "Yes," state the name and location appeal was filed, the case number (if you know), the ecision, and the result. Attach a copy of the court's ailable:

admi on G	nistrative remedies, etc.) that you have used to exhaust your state remeder round One:n/a
Grou	und Two: See attached sheets.
(a) supp	Supporting Facts (Do not argue or cite law. Just briefly state the facts fort your claim): See attached sheets.
(b) expla	If you did not exhaust your state court remedies on Ground Two, bri ain why:
(c)	Direct Appeal of Ground Two:
	(1) If you appealed from the judgment of conviction, did you raise this sue? Yes \underline{X} No $\underline{\hspace{1cm}}$
	(2) If you did not raise this issue in your direct appeal, briefly explain why:

of the court where the appeal was filed, the case number (if you know), t date of the court's decision, and the result. Attach a copy of the cour opinion or order, if available:		
No X (see below habeas corpus in a state trial court? Yes No X (see below habeas corpus in a state trial court? Yes No X (see below to a state trial court? Yes No X (see below to a state trial court? Yes No X (see below to a 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 Tregarding 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 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 opinion or order, if available: (7) If your answer to Question (d)(4) or Question (d)(5) is "No," brie explain why you did not raise this issue: The issue was inappropriate.	Post-0	Conviction Proceedings:
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 To 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 the court where the appeal was filed, the case number (if you know), to date of the court's decision, and the result. Attach a copy of the court opinion or order, if available:	(1) Did habea	d you raise this issue through a post-conviction motion or petition for as corpus in a state trial court? Yes No $X = \frac{X}{See}$
(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 cour opinion or order, if available: (7) If your answer to Question (d)(4) or Question (d)(5) is "No," brie explain why you did not raise this issue: The issue was inappropriated.	petitio was fi and th	n, the name and location of the court where the motion or petition led, the case number (if you know), the date of the court's decision, he 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), that date of the court's decision, and the result. Attach a copy of the court opinion or order, if available: (7) If your answer to Question (d)(4) or Question (d)(5) is "No," brie explain why you did not raise this issue: The issue was inappropriated.	regar	ding the sketch and the profile report, but the claim was
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 opinion or order, if available: (7) If your answer to Question (d)(4) or Question (d)(5) is "No," bried explain why you did not raise this issue: The issue was inappropriate.	based	upon a different legal argument than advanced herein.
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 locati of the court where the appeal was filed, the case number (if you know), t date of the court's decision, and the result. Attach a copy of the cour opinion or order, if available: (7) If your answer to Question (d)(4) or Question (d)(5) is "No," brie explain why you did not raise this issue: The issue was inappropriate.		
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 locati of the court where the appeal was filed, the case number (if you know), t date of the court's decision, and the result. Attach a copy of the cour opinion or order, if available: (7) If your answer to Question (d)(4) or Question (d)(5) is "No," brie explain why you did not raise this issue: The issue was inappropriate.		
 (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 opinion or order, if available: (7) If your answer to Question (d)(4) or Question (d)(5) is "No," brief explain why you did not raise this issue: The issue was inappropriate. 	Yes _ (4)	No Did you appeal from the denial of your motion or petition?
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 opinion or order, if available: (7) If your answer to Question (d)(4) or Question (d)(5) is "No," bried explain why you did not raise this issue: The issue was inappropriated.	(5)	If your answer to Question (d)(4) is "Yes," did you raise this issue
explain why you did not raise this issue: The issue was inappropriat	of the	court where the appeal was filed, the case number (if you know), the of the court's decision, and the result. Attach a copy of the court's
explain why you did not raise this issue: The issue was inappropriate		
explain why you did not raise this issue: The issue was inappropriate		
for a Petition for New Trial.	(7) expla	If your answer to Question (d)(4) or Question (d)(5) is "No," brieflin why you did not raise this issue: The issue was inappropriate
	for a	a Petition for New Trial.

on G	Fround Two:n/a
Gro	und Three: See attached sheets.
(a) supp	Supporting Facts (Do not argue or cite law. Just briefly state the facts our claim): See attached sheets.
_	
(b) expla	If you did not exhaust your state court remedies on Ground Three, bain why:
(c)	Direct Appeal of Ground Three:
	(1) If you appealed from the judgment of conviction, did you raise issue? Yes \underline{X} No $\underline{\hspace{1cm}}$
	(2) If you did not raise this issue in your direct appeal, briefly explain why:

	I you raise this i s corpus in a sta			ction motion or p NoX	etition for
(2) If petition	our answer to C n, the name and ed, the case nu	Question (d)(1 d location of the mber (if you k) is "Yes," sta ne court when now), the da	ate the type of more the motion or te of the court's of the court'	petition decision,
	Did you receive		your motion	or petition?	
	Did you appeal No		ial of your mo	otion or petition?	
		to Question (des N		did you raise th	is issue
of the	court where the	appeal was fi cision, and th	iled, the case ne result. At	state the name ar number (if you l tach a copy of t	know), the

Grou	nd Four: See attached sheets.
(a) supp	Supporting Facts (Do not argue or cite law. Just briefly state the faort your claim): See attached sheets.
(1.)	Managed and automate value state court remedies on Cround Four
(b) expla	If you did not exhaust your state court remedies on Ground Four in why:

Post-	Post-Conviction Proceedings:				
	1) Did you raise this issue through a post-conviction motion or petition for abeas corpus in a state trial court? Yes No _X				
petition was f	your answer to Question (d)(1) is "Yes," state the type of motion or on, the name and location of the court where the motion or petition iled, the case number (if you know), the date of the court's decision he result. Attach a copy of the court's opinion or order, if available:				
(3) Yes	Did you receive a hearing on your motion or petition? No				
(4)	Did you appeal from the denial of your motion or petition? No				
	If your answer to Question (d)(4) is "Yes," did you raise this issue appeal? Yes No				
	If your answer to Question (d)(5) is "Yes," state the name and location court where the appeal was filed, the case number (if you know), the				
(6) of the	of the court's decision, and the result. Attach a copy of the court on or order, if available:				
(6) of the	of the court's decision, and the result. Attach a copy of the cour				

MAGEOU	and Five: see attached sheets for grounds and supportive facts. As
other	applicable questiosn, answers are the same as answers re: Grounds
throug	gh Four. ** Grounds Six through Ten: see attached sheets.
Please	answer these additional questions about the petition you are filing:
(a) presen	Have all grounds for relief that you have raised in this petition been sted to the highest state court having jurisdiction? Yes No $_{\rm X}$
If your give yo	answer is "No," state which grounds have not been so presented and briefly our reason(s) for not presenting them: Grounds Six through Nine have been
presen	ated to the Connecticut Appellate Court, and a decision has not ye
render	ed. Ground Ten has not been presented to any appellate court as t
or fede	oner just became aware of this information recently. Is there any ground in this petition that has not been presented in some state eral court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them: Yes. Ground Ten. See response
to pre	vious questions.

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 X

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,

_	
_	
_	
pi	the answer to Question 21 is "Yes" and you are raising a claim that you did no resented in a prior federal petition, application or motion, have you obtained are from the United States Court of Appeals for the Second Circuit authorizing this strict court to consider this petition? Yes No
lf	"Yes," please attach a copy of the order.
C	o you have any petition or appeal now pending (filed and not decided yet) in any ourt, either state or federal, for the judgment you are challenging? es X No X
If p	"Yes," state the name and location of the court, the case number, the type or roceeding and the issues raised: Connecticut Appellate Court, Docket N
A	.C. 29363, direct appeal. Issues raised: See Grounds Six through N
a	ttached hereto.
_	
_	
_	
-	LEGAL REPRESENTATION
	LEGAL REPRESENTATION Sive the name and address, if known, of each attorney who represented you in the ollowing stages of the judgment you are challenging:

(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 St., 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 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
 Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes No _X
(b) Give the date the other sentence was imposed: (c) Give the length of the other sentence:
(d) Have your 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

n/a	in 28 U.S.C. § 2244(d) does not bar your petition.1
-	
28)	Are you presently serving a sentence imposed for a conviction other than the conviction being challenged in this motion? Yes No $\frac{X}{X}$
	refore, petitioner prays that the court grant him such relief to which he may be entitled is proceeding.
U.S.0	¹ The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA"), as codified in 28 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 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 cased 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.

Petitioner's Original Signature

Petitioner's Inmate Number

Signature of Attorney (if any)

Hubert J. Santos, #00069

Hope C. Seeley, #04863

Sandra Snaden Kuwaye, #18586

Attorney's Full Address and Telephone Number

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

DECLARATION UNDER PENALTY OF PERJURY

The undersigned declares under penalty of perjury that he/she is the petitioner in this action, that he/she has read this petition and that the information contained in the petition is true and correct. 28 U.S.C. § 1746; 18 U.S.C. § 1621.

Executed at Laffuld, Con 12-26-08 (Location) (Date)

Petitioner's Original Signature