

**AFFIDAVIT IN SUPPORT OF
REQUEST TO APPLY FOR RESENTENCING AND ASSIGNMENT OF COUNSEL
PURSUANT TO CRIMINAL PROCEDURE LAW § 440.47
(DOMESTIC VIOLENCE SURVIVORS JUSTICE ACT)**

*Please fill out this affidavit completely and sign and **notarize** it at the end. If you do not know the answer to any of the questions, write "I don't know." Please only answer the questions in the affidavit about the conviction for which you are seeking resentencing. **Send the completed form to the court where you were sentenced.** Addresses are on the NYC Court Address List.*

A. BIOGRAPHICAL INFORMATION

Name: _____ Date of Birth: _____

Ind. No.: _____ County of Conviction: _____

Sentencing Date: _____ Sentencing Judge: _____

B. ELIGIBILITY FOR RESENTENCING

1. Are you currently in prison? Yes No

Which facility? _____

2. Are you serving a sentence of 8 years or more? Yes No

What is your sentence? _____

3. Were you sentenced as a:

a. Second violent felony offender? Yes No

b. Persistent violent felony offender? Yes No

4. Were you convicted of any of the following crimes:

a. Murder in the second degree under Penal Law § 125.25(5)?¹ Yes No

b. Aggravated murder under Penal Law § 125.26? Yes No

c. Murder in the first degree under Penal Law § 125.27? Yes No

1. Murder in the second degree under P.L. § 125.25(5) means someone over 18 years old killed a child under 14 years old while engaging in rape, a criminal sexual act, sexual abuse, or incest against the child.

- d. A crime related to terrorism under Penal Law Article 490 (Penal Law §§ 490.10, 490.15, 490.20, 490.25, 490.30, 490.35, 490.37, 490.40, 490.45, 490.47, 490.50, 490.55)? Yes No
- e. Attempt or conspiracy to commit any of the crimes listed in questions 4.a through 4.d? Yes No
- f. A crime for which you will be required to register as a sex offender as a result of the conviction? Yes No

If you checked "No" to all of the above crimes, what crime(s) were you convicted of? _____

- 5. Was the crime(s) committed before August 12, 2019? Yes No

What was the date(s) of the crime(s)? _____

- 6. At the time of the crime, were you the victim of domestic violence, meaning you were subjected to substantial physical, sexual or psychological abuse? Yes No
- 7. Was the person or people who abused you (*check all that apply*):
 - a. Someone you are or were married to? Yes No
 - b. Someone you are or were engaged to be married to? Yes No
 - c. Someone related to you by blood or adoption (for example, a parent, brother, sister, aunt, uncle, or cousin)? Yes No
 - d. Someone who usually lived in the same home as you (including a foster home)? Yes No
 - e. Someone you have or had a child with? Yes No
 - f. Someone you have or had an intimate relationship with (for example, a boyfriend or girlfriend or someone you had a sexual relationship with), whether or not you lived with them? Yes No
 - g. Other member of your same family or household? Yes No

8. Was the abuse a significant contributing factor to the alleged criminal behavior? Yes No

C. QUALIFICATIONS FOR ASSIGNMENT OF COUNSEL

9. Can you afford an attorney to assist you with your motion for resentencing? Yes No

10. How much money do you earn per week, if anything? \$ _____

11. What is the total amount of money in your commissary account and bank account, if you have one? \$ _____

12. What is the total value of personal property (car, jewelry, etc.) and real property (land, apartment, house etc.) you own? \$ _____

13. Do you collect any of the following:

| | | |
|------------------------------------|------------------------------|-----------------------------|
| Unemployment benefits? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| Pension? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| Alimony or support? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| SSI or Social Security Disability? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

14. Do you have any other sources of income? Yes No

If yes, please explain _____

15. Who represented you in Supreme Court?

- Public Defender (The Legal Aid Society, Bronx Defenders, Brooklyn Defender Services, Neighborhood Defender Service of Harlem, New York County Defenders, Queens Law Associates)
- 18-b Counsel
- Private Counsel

a. If you checked private counsel, where did the money come from to pay your attorney? _____

b. Why can you no longer afford to pay an attorney? _____

16. During proceedings in the Supreme Court, were you:

- Incarcerated
- Released on your own recognizance
- Released on bail

a. If you checked released on bail, what was the amount of bail? \$ _____

b. Who posted the bail? _____

c. If someone posted bail for you, what is his/her relationship to you? _____

d. Why can't that money be used to pay for an attorney now? _____

I request that I be permitted to submit a motion for resentencing pursuant to C.P.L § 440.47(1)(a) and that the Court assign me counsel to represent me on that motion pursuant to C.P.L. § 440.47(1)(c).

Wait to sign this form in front of a Notary Public

I have been duly sworn. The answers to the above questions are true to the best of my knowledge. I authorize the Court to investigate the answers and realize that an intentionally false answer could result in prosecution for perjury.

Applicant's Signature

Sworn to before me this
_____ day of _____, 2 _____

Notary Public