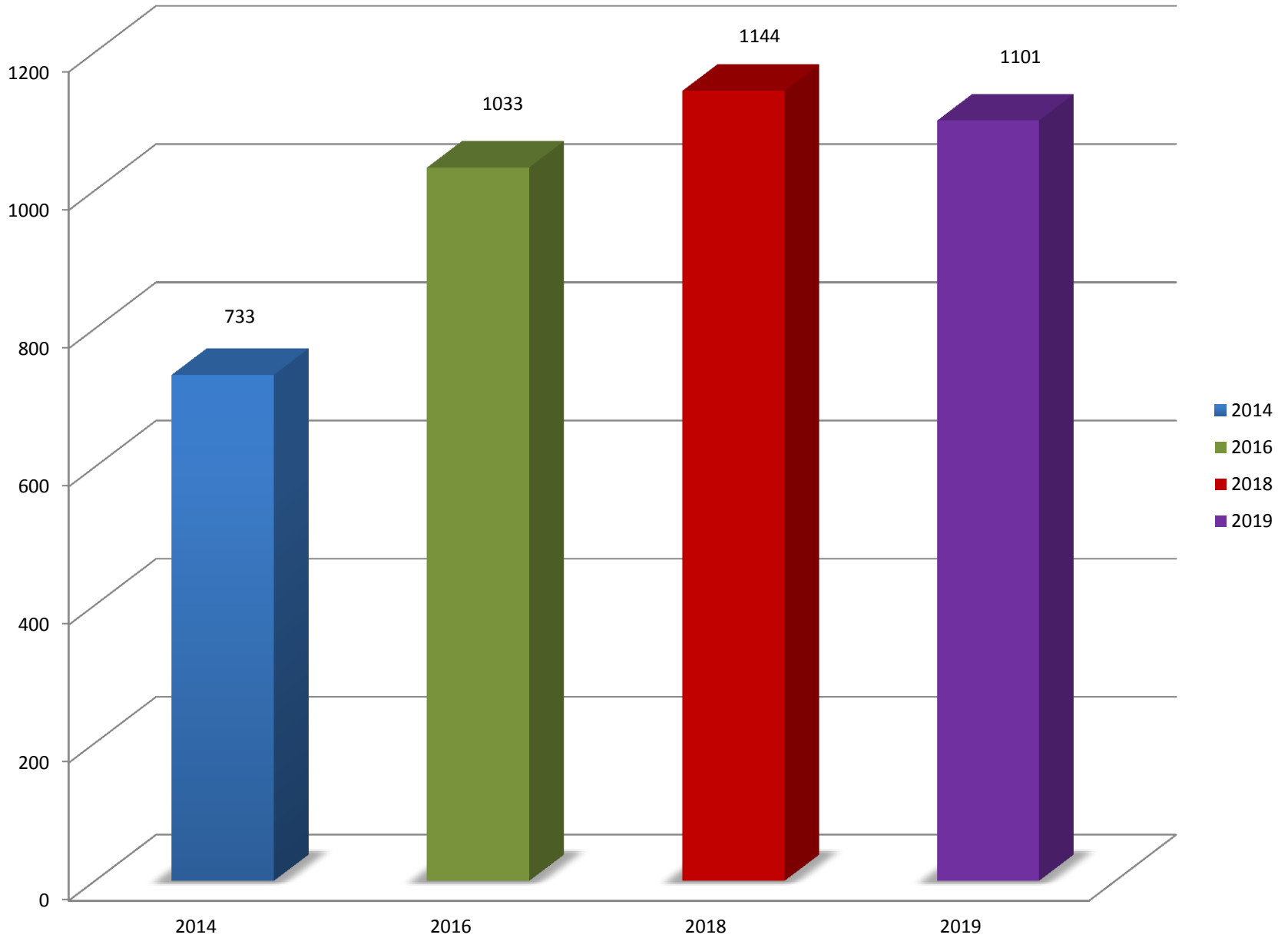




DCJ HABEAS PRACTICE

DCJ Pending Habeas Cases 2014 - 2019



PETITION FOR WRIT OF HABEAS CORPUS

CN1050 Rev. 05/2015

Notice A petition that challenges a conviction, confinement or other deprivation of liberty that is a result of a conviction of a crime, must be filed at the Superior Court, 20 Park Street, Rockville, CT 06066. File the original and TWO copies with the court clerk.

NOTE: Page 5 and Page 6 must be signed and notarized before filing.

Revised 2/15

If you are held on something *other than* a criminal conviction (such as adjudications of not guilty by reason of insanity or as a juvenile), the petition and two copies must be filed in the Judicial District where the petitioner is confined or held.

CT Inmate No.:	
Other No:	A#
Name of Inmate:	

FOR SUBMISSION TO SUPERIOR
COURT AT:

--

v. Commissioner of Correction

Address:

1. Details of conviction(s) and sentence(s) now being served:

1a. Date of Arrest:
1b. Location of Court:
1c. Sentencing Judge:
1d. Date(s) of sentencing:
1e. Sentence(s) (specify individual counts):
Concurrent or Consecutive:
Total effective sentence:
Probation/Special Parole:
1f. I <input type="checkbox"/> Pled guilty. Date of plea:
(or) I <input type="checkbox"/> was convicted by: a jury <input type="checkbox"/> a judge <input type="checkbox"/>
1g. Total time in jail before sentencing: _____ (days)
1h. My lawyer was: <input type="checkbox"/> A Public Defender <input type="checkbox"/> Special Public Defender (Assigned Counsel) <input type="checkbox"/> Privately retained (paid to represent you):
Name(s) of your lawyer(s):

2. Did you apply for sentence review? Yes No

My lawyer was: <input type="checkbox"/> A Public Defender <input type="checkbox"/> Special Public Defender (Assigned Counsel) <input type="checkbox"/> Privately retained (paid to represent you)
Name of Lawyer:
If yes, what result?:

Inmate No.:

REQUEST FOR APPOINTMENT OF COUNSEL

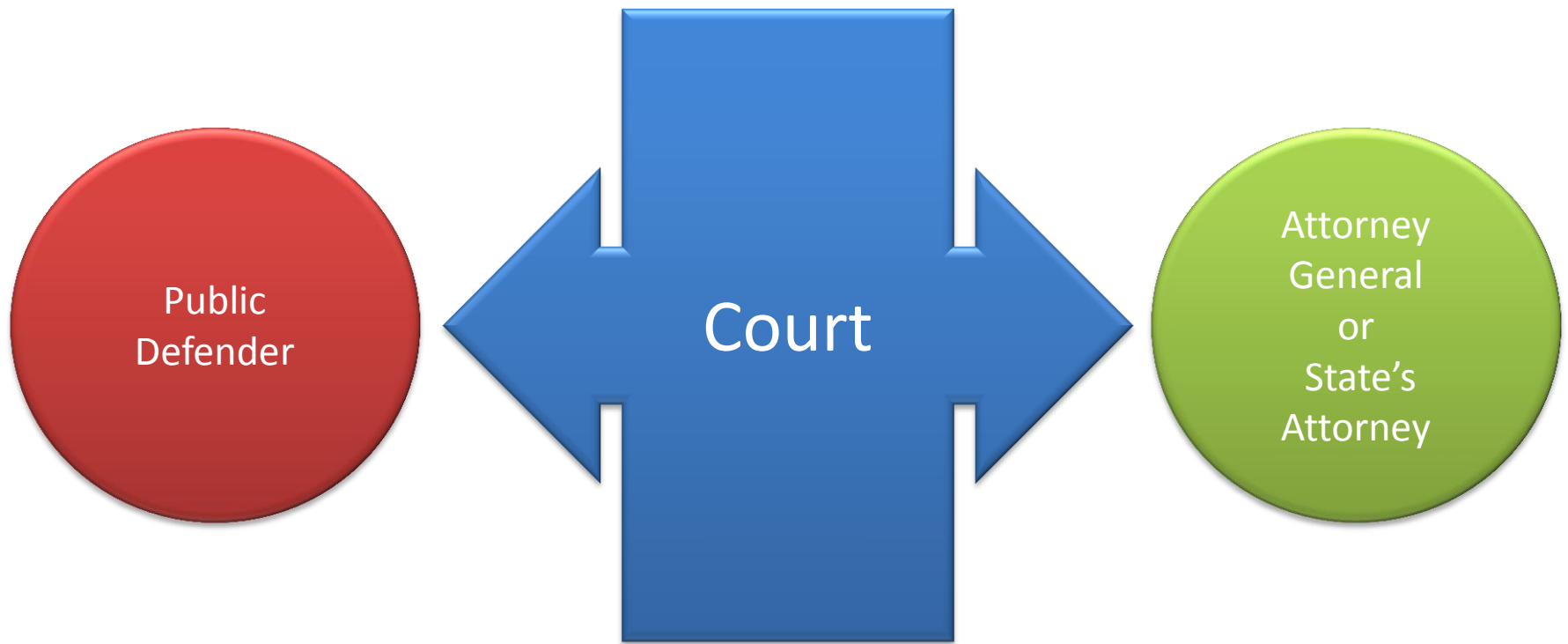
(Counsel will not be appointed for claims under question 8)

I do do not want an attorney to represent me in this claim.

Date signed

Signature of Petitioner

COURT REFERS PETITION



PUBLIC DEFENDER

Indigency investigation

Assignment of counsel

COUNSEL APPOINTED

(as of July 9, 2019)

Top 8 Assigned Counsel Firms

Number of Cases

- | | |
|---|-----|
| • Kirschbaum Law Group, LLC | 155 |
| • Law Office of Christopher Duby, LLC | 118 |
| • Pieszak-Miller & Brodeur, LLC | 105 |
| • Ruane Attorneys | 101 |
| • Law Office of Pat Brown | 100 |
| • The Law Office of Jason C. Goddard, LLC | 66 |
| • The Mortimer Law Firm, LLC | 49 |
| • Peter Tsimbidaros | 38 |

NEW HABEAS PETITIONS DCJ PROCEDURES

- Inmate's petition reviewed
- Petition referred to appropriate office
 - OCSA Civil Litigation Bureau (8 attorneys)
 - Fairfield State's Attorney's Office (1 attorney)
 - New Haven State's Attorney's Office (2 attorneys)
 - New London State's Attorney's Office
 - Waterbury State's Attorney's Office (1½ attorneys)

NEW HABEAS PETITIONS DCJ PROCEDURES

- Transcripts ordered
- Court's file ordered
- State's attorney's file ordered
- Appellate materials, if any, ordered

- Six months after return date, parties called for a status conference (first Friday of the month)

STATE OF CONNECTICUT

DOCKET NUMBER: | SUPERIOR COURT
| JUDICIAL DISTRICT OF TOLLAND
V. | AT ROCKVILLE
WARDEN | DATE:

HABEAS - SCHEDULING ORDER

Unless otherwise ordered by the Court, the following schedule shall enter in accordance with Practice Book § 23-34 and become an order of the Court:

- 1) Amended Petition due: (One year prior to trial date)
Failure to file by the date above constitutes notice that an Amended Petition will not be filed. In which case, the Respondent is ordered to file a Return forthwith.
2) Return due: (30 days from the date amended petition filed)
3) Reply due: (30 days from the date return filed if special defenses raised)
4) Certificate of Closed Pleadings no later than: (10 days from the date reply is or would be due if special defenses not raised in return)
5) Any Motion for Summary Judgment, Motion to Dismiss, or Motion filed pursuant to CGS §52-470 shall be filed prior to: (Six months prior to the date of trial)
6) Simultaneous Witness Lists due: (Six months prior to the date of trial)
(Note: Parties are expected to provide written notice to professional witnesses at least a month in advance of the trial date to ensure their availability)
7) Disclosure of Expert Witnesses: Petitioner due: (Six months prior to the date of trial); Respondent due: (Two weeks later)
8) Any requests for Audiovisual/telephone witness testimony and/or transportation of a petitioner incarcerated out-of-state are due by: (30 days prior to the date of trial)
9) Simultaneous Trial Briefs due: (2 weeks prior to trial)
(Note: The filing of a pretrial brief is optional, unless otherwise ordered by the court.)
10) Trial Date(s): This case shall be claimed to the trial list.

The foregoing dates are firm and may only be altered by filing a Motion to Modify the Scheduling Order. Failure to comply with this order may subject the non-complying party to any and all sanction(s) deemed necessary and appropriate by the Court and allowed by law, including dismissal.

Withdrawals and Stipulations: Will NOT be accepted unless signed by counsel and the petitioner.

Petitioner's Counsel | Email address | SCHORD
Respondent's Counsel | Email address | TLCLAIM

BY THE COURT,

HABEAS PETITIONS

DCJ PROCEDURES

Once amended petition filed:

- Review transcripts

- Review investigation

- Review materials from prior habeas cases

- Interview witnesses

- Research expert witness' proposed testimony

Draft and file return

Motions

HABEAS PETITIONS DCJ PROCEDURES

Pretrial brief

Trial

Post-Trial brief

Appeal

HABEAS ABUSES

Ineffectiveness Hall of Mirrors

Repetitive Filings

Kaddah v. Comm. of Correction

324 Conn. 548 (2017)

- Kaddah convicted in 1996
(murder and attempted murder -- 2 victims)
- Appeal. *State v. Kaddah*, 250 Conn. 563 (1999)
- First habeas. *Kaddah v. Warden*, Docket No. CV01-0807618
- Second habeas. *Kaddah v. Warden*, Docket No. CV04-4429
- Appeal from second habeas, *Kaddah v. Comm. of Correction*, 105 Conn. App. 430 (2006)

Kaddah v. Comm. of Correction

324 Conn. 548 (2017)

- Third habeas. *Kaddah v. Warden*, Docket No. CV08-4002736
- Appeal from third habeas. *Kaddah v. Comm. of Correction*, 299 Conn. 129 (2010)
- Fourth habeas. *Kaddah v. Comm. of Correction*, Docket No. CV12-4004952

Kaddah v. Comm. of Correction

324 Conn. 548 (2017)

- Appeal from fourth habeas. *Kaddah v. Comm. Of Correction*, 324 Conn. 548 (2017) (remanding for new habeas trial)
- New trial on fourth habeas. *Kaddah v. Comm. Of Correction*, 324 Conn. 548 (2017) (new habeas trial)
- Appeal from new trial on fourth habeas. *Kaddah v. Comm. of Correction*, A.C. 42942 (pending)

In summary, the following lawyers or firms have represented Nabil Kaddah since 1994:

1. Attorney James Ruane
2. Attorney Glen Falk
3. Attorney Salvatore Adamo
4. Attorney Jodi Zils Gagne
5. Attorney Joseph Visone
6. Attorney Deren Manasevit
7. Kirschbaum Law Group
8. Law Office of Christopher Duby

Kaddah v. Comm. of Correction

324 Conn. 548 (2017)

- Petitioner can attack multiple layers of counsel
- For Kaddah to prevail, he would have to show:
 - Second habeas counsel ineffective *and*
 - First habeas counsel ineffective *and*
 - Trial counsel ineffective

Stanley v. Comm. of Correction

164 Conn. App. 244 (2016)

- Kevin Stanley convicted in 1991 of murder
- In his fourth habeas case, Stanley alleged that:

Third habeas counsel was ineffective ***and***

Second habeas counsel ineffective ***and***

First habeas counsel ineffective ***and***

Trial counsel ineffective

Stanley v. Comm. Of Correction

164 Conn. App. 244 (2016)

The Appellate Court notes, “the habeas court, *Oliver, J.*, aptly observed that ‘this case is a prime example of the abuse of the habeas corpus process. . . . [I]t could not have been the intent of the legislature to allow cases of this nature to come before the court in what, so far, has shown to be an unending loop.’”

GENERAL STATUTES § 51-296

(a) In any criminal action, in any habeas corpus proceeding arising from a criminal matter, in any extradition proceeding . . . the court before which the matter is pending shall . . . designate a public defender, assistant public defender or deputy assistant public defender to represent such indigent defendant. . . .

REPETITIVE FILINGS

Practice Book § 23-29(3)

James L. v. Comm. of Correction, 245 Conn. 132

Court may dismiss a petition if the ground was raised in a prior petition and the petition seeks different relief.

REPETITIVE FILINGS

DIFFERENT GROUNDS

1. Ineffective assistance of trial counsel
2. Ineffective assistance of counsel at sentencing
3. Ineffective assistance of counsel regarding jail credits
4. Ineffective assistance of appellate counsel
5. Ineffective assistance of prior habeas counsel
6. Ineffective assistance of prior habeas appellate counsel
7. Prosecutorial impropriety
8. Actual innocence

EXAMPLES FROM OTHER STATES

All grounds for relief from a criminal judgment . . . must be raised in a single post-conviction review action and any grounds not so raised are waived unless the Constitution of Maine or the Constitution of the United States otherwise requires or unless the court determines that the ground could not reasonably have been raised in an earlier action.”

15 Maine Revised Statutes Ann. § 2128(5)

EXAMPLES FROM OTHER STATES

“***All grounds*** for relief claimed by petitioner in a petition . . . must be asserted in the original or amended petition, and any grounds not so asserted are deemed waived unless the court on hearing a subsequent petition finds grounds for relief asserted therein which could not reasonably have been raised in the original or amended petition.”

Oregon Revised Statutes Ann. § 138.550(3)

EXAMPLES FROM OTHER STATES

“***All grounds*** for relief available to an applicant at the time he or she commences a proceeding under this chapter must be raised in his or her original, or a supplemental or amended, application.”

Second proceeding available if “the court finds that in the interest of justice the applicant should be permitted to assert such a ground for relief.”

Rhode Island Gen.Laws 1956, § 10-9.1-8

THE NEEDLE IN THE HAYSTACK

	DOC Population	New Habeas Cases
FY17-18	9,516	668
FY16-17	10,568	748
FY15-16	11,468	824
FY14-15	12,170	949
	• • •	
FY00-01	14,230	631
FY99-00	14,364	536

**As DOC population decreased by 33.75%,
habeas filings increased by 24.6%**

THE NEEDLE IN THE HAYSTACK

FY17-18	DOC Population	9,516
	New Habeas Cases	668
FY17-18	Connecticut population	3,572,655
	New Civil Cases	49,304

**DOC population files habeas actions
508% more frequently than the general
population files all other civil actions
(divorce, malpractice, foreclosures, etc.)**

THE NEEDLE IN THE HAYSTACK

	New Habeas Cases	Habeas Petition Granted by Habeas Court (New Trial Ordered)
FY17-18	668	1
FY16-17	748	0
FY15-16	824	2
FY14-15	949	1
FY13-14	841	4
FY12-13	673	3
FY11-12	538	3

THE NEEDLE IN THE HAYSTACK

Additional Orders of Relief:

Habeas court orders resentencing (2001 – 2016)

8 cases

Habeas court orders kidnapping vacated (2011 – 2018)

13 cases