

There is a crisis of wrongful convictions in New York State.

New York has a serious wrongful conviction problem. More than 300 people have been exonerated in New York since 1989, resulting in a collective 3,068 years of life lost to wrongful convictions. Our state ranks third highest in the number of wrongful convictions in the nation, trailing behind Texas and Illinois. This is the tip of the iceberg. Because state law makes it effectively impossible for innocent people who pleaded guilty to clear their names in court, the true number of wrongful convictions is certainly much higher. The Challenging Wrongful Convictions Act (A.98/S.266) overhauls Criminal Procedure Law 440 to ensure that all New Yorkers have a working pathway to exoneration.

WHY DOES NEW YORK NEED REFORM?

The harm done by a wrongful conviction is permanent.

- To take a person away from their family, remove them from their community, and imprison them wrongfully is one of the greatest harms the state can inflict upon the individual. A conviction lasts forever making employment and housing difficult.

In New York, almost 98% of convictions are the result of a plea deal.

- With the threat of a considerably longer prison sentence hanging over their head, people accused of crimes routinely make the difficult but rational decision to plead guilty for a shorter sentence, regardless of innocence.
- But New York's highest court says that if you plead guilty, you cannot later have your conviction vacated unless there is DNA evidence in your case. DNA evidence is not collected in most cases. For context, DNA evidence was only used in 43 of NY's 303 exonerations since 1989.
- Discovery reform passed in 2019 deals with pretrial discovery but unfortunately does not contain provisions guiding post-conviction discovery, which effectively prevents convicted people from seeking discovery once they have been convicted.

OUR PROPOSAL - S.266 (MYRIE) /A.98 (QUART)

- **Guilty plea fix:** Allow people to apply to overturn wrongful convictions even if they pled guilty, as is the law in other states including Texas
- **Post-conviction discovery:** Provide people seeking to clear their names with a chance to review the evidence in the underlying case
- **Right to a hearing:** Ensure the right to a hearing before a judge if you have evidence of innocence. Under current law, most people are denied relief without a hearing.
- **Right to counsel:** Create a right to counsel to help people plead their case before a judge.
- **Remove procedural roadblocks to relief**

****Campaign led by VOCAL-NY, New York County Defender Services & the Innocence Project***

For more information: please contact nick@vocal-ny.org

Case Histories

Jason Serrano:

Jason Serrano was driving in Stapleton on Staten Island when he was stopped by police, and searched because of the alleged smell of marijuana. Mr. Serrano, who was recovering from an abdominal injury, was pushed to the ground, handcuffed, and left writhing in pain. He woke up in the hospital facing charges of resisting arrest and drug possession.

To avoid being sent to Rikers Island, Mr. Serrano took a guilty plea to resisting arrest. Then in 2019, airtight proof of his innocence emerged-- body camera footage of the arresting officers planting the drugs they “found” in his car.

Despite this compelling video, Mr. Serrano failed to clear his name under NY’s current law which bars people who plead guilty from claiming “actual innocence” unless there is DNA evidence. Having this conviction on his record meant he could face collateral consequences such as barriers to employment and housing, as well as social stigma.

In October 2021, a judge vacated his conviction based on constitutional search and seizure violations caught on the video, and then the Staten Island District Attorney had to decide whether to refile or drop the charges. Finally, in November 2021, after calls from elected officials and advocates, the prosecution finally agreed to dismiss the charges.

But it shouldn’t take two years and public outcry for innocent NYers to overturn their convictions. The “Challenging Wrongful Convictions Act” (Assembly Bill 98/Senate Bill 266) would change the broken law for innocent NYers, and give those like Mr. Serrano a pathway to justice.

****Campaign led by VOCAL-NY, New York County Defender Services & the Innocence Project***

For more information: please contact nick@vocal-ny.org