

Attachment A



Board of Examiners of Sex Offenders

KATHY HOCHUL
Governor

MICHELE L. HARRINGTON
Chairperson

TO: First Name, Last Name
Correctional Facility **DOB:**
DIN:

FROM: NYS Board of Examiners of Sex Offenders

RE: Fifth Amendment Claim Form

DATE:

Please be advised that you have been identified to the New York State Board of Examiners of Sex Offenders (the "Board") as an incarcerated individual who is under review pursuant to the New York State Sex Offender Registration Act ("SORA") (Correction Law Article 6-C), who was convicted by guilty verdict of a qualifying offense and is refusing or was removed from the Department of Corrections and Community Supervision Sex Offender Counseling and Treatment Program (SOCTP). Kindly complete the information on the back of this form regarding any Fifth Amendment claim you may have based on the criteria below, and send the completed form, along with supporting documentation within **30 days** of receipt of this letter to the Board at **80 S. Swan St., Room 202, Albany, New York 12210**.

Please note that you must provide documentation to support your claim that you are eligible. Some examples of appropriate supporting documentation are a signed letter from your attorney indicating that you meet the eligibility requirements, a trial transcript, a notice of appeal from your SORA qualifying guilty verdict, filed appellate briefs challenging your SORA qualifying guilty verdict, and filed motions in the appellate court related to the appeal of your SORA qualifying guilty verdict.

Pursuant to the settlement agreement in *Krull v. Annucci*, 21-cv-03395, if you meet the eligibility requirements below and provide sufficient documentation then you will not be assessed points by the Board on the Risk Assessment Instrument under Factor 12 based on your refusal to complete SOCTP.

Please be further advised that the Board is required to meet statutory timeframes for sending its recommendation to the sentencing Court. If, based on these timeframes, the Board is not able to provide you with **30 days** to respond to this Claim Form you may send this form along with any supporting documentation directly to your attorney or the sentencing Court.

Eligibility Requirements for Making a Fifth Amendment Claim

(Check the appropriate box below)

You are refusing or were removed from the SOCTP based upon a 5th Amendment claim of self-incrimination, and:

- You pled not guilty to a SORA qualifying offense,
- You testified on your own behalf under oath in your criminal case within the past five years, and
- You were found guilty after trial;

- OR -

You are refusing or were removed from the SOCTP based upon a 5th Amendment claim of self-incrimination and:

- you have filed a notice of appeal from your SORA qualifying guilty verdict,
- your appellate remedies have not been exhausted, and
- you are pursuing your appellate remedies by doing any of the following:
 - you perfected your appeal, or
 - you ordered or received a transcript of the proceedings that lead to your SORA qualifying guilty verdict, or
 - you filed a motion to proceed as a poor person after filing a notice of appeal from your SORA qualifying guilty verdict, or
 - you filed a motion seeking an extension of your time to perfect your appeal challenging your SORA qualifying guilty verdict in the appropriate appellate court and had that motion granted, or
 - you have retained or were assigned counsel to challenge your SORA qualifying guilty verdict.

None of the above apply

Return this form, and supporting documentation you may have within 30 days to:

**The Board of Examiners of Sex Offenders
80 S. Swan St., Room 202
Albany, New York 12210**