

No. 23-

IN THE  
SUPREME COURT OF THE UNITED STATES

Taberon Dave Honie — PETITIONER  
(Your Name)

VS.

Robert Powell, Warden — RESPONDENT(S)

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

The petitioner asks leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed *in forma pauperis*.

Please check the appropriate boxes:

Petitioner has previously been granted leave to proceed *in forma pauperis* in the following court(s):

The United States District Court for the District of Utah and the  
United States Court of Appeals for the Tenth Circuit

Petitioner has **not** previously been granted leave to proceed *in forma pauperis* in any other court.

Petitioner's affidavit or declaration in support of this motion is attached hereto.

Petitioner's affidavit or declaration is **not** attached because the court below appointed counsel in the current proceeding, and:

The appointment was made under the following provision of law: \_\_\_\_\_, or \_\_\_\_\_, or

a copy of the order of appointment is appended.

s / Jeffrey T. Green  
(Signature)

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH, CENTRAL DIVISION

U.S. DISTRICT COURT  
FILED  
2007 AUG 23 PM 4:07

DISTRICT OF UTAH

**TABERON DAVE HONIE,**

Petitioner,

v.

**STEVEN TURLEY, WARDEN, UTAH  
STATE PRISON,**

Respondent.

BY: DEPUTY CLERK

**SEALED ORDER APPOINTING THE  
UTAH FEDERAL DEFENDER  
OFFICE**

Case: 2:07mc00628  
Assigned To : Kimball, Dale A.  
Assign. Date : 8/23/2007  
Description: Sealed v. Sealed

Based on 28 U.S.C. § 2254(h) and 18 U.S.C. § 3006A(a)(2)(B), this court  
appoints the Utah Federal Defender Office to represent Taberon Dave Honie in filing a  
petition for a writ of habeas corpus under 28 U.S.C. § 2254.

Be it so ordered, this 23 day of August, 2007.



Judge Samuel Alba  
Federal Magistrate for the District  
of Utah

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH, CENTRAL DIVISION

FILED  
CLERK'S OFFICE, U.S. DISTRICT COURT  
2007 AUG 23 PM 4:08

DISTRICT OF UTAH

**TABERON DAVE HONIE,**

Petitioner,

v.

**STEVEN TURLEY, WARDEN, UTAH  
STATE PRISON,**

Respondent.

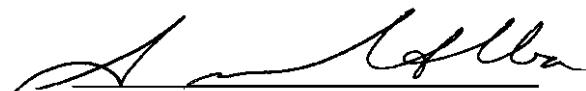
BY: DEPUTY CLERK

**SEALED ORDER GRANTING  
PETITIONER PERMISSION TO  
PROCEED IN FORMA PAUPERIS**

Case: 2:07mc00628  
Assigned To : Kimball, Dale A.  
Assign. Date : 8/23/2007  
Description: Sealed v. Sealed

Based on Petitioner Taberon Dave Honie's declaration of indigency and his lengthy custody status, this court grants Mr. Honie's application to proceed in forma pauperis.

Be it so ordered, this 23<sup>rd</sup> day of August, 2007.



Judge Samuel Alba  
Federal Magistrate for the District  
of Utah

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**IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH**  
**CENTRAL DIVISION**

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**TABERON DAVE HONIE,**

**Petitioner,**

**v.**

**STEVEN TURLEY, Warden Utah State  
Prison,**

**Respondent.**

**ORDER TO UNSEAL CASE**

**Case No. 2:07-MC-00628**

**District Judge Clark Waddoups**

**Magistrate Judge Paul M. Warner**

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District Judge Clark Waddoups referred this matter to Magistrate Judge Paul M. Warner pursuant to 28 U.S.C. § 636(b)(1)(A).<sup>1</sup>

On August 23, 2007, Magistrate Judge Samuel Alba issued an order sealing all of the case filings in this matter until Petitioner filed his Petition for a Writ of Habeas Corpus.<sup>2</sup> On February 21, 2012, Respondent filed two copies of his Objection to Ex Parte Proceedings and Motion to Unseal Case, as well as two copies of a Memorandum in Support of Objection to Ex Parte Proceedings and Motion to Unseal Case.<sup>3</sup>

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<sup>1</sup> See Docket No. 26.

<sup>2</sup> See Docket No. 7.

<sup>3</sup> See Docket Nos. 20, 21, 22 and 23.

The Court carefully reviewed Respondent's filings. Pursuant to Rule 7-1(f) of the United States District Court for the District of Utah Rules of Practice, and noting no objection from Petitioner, the Court concludes that the case may be unsealed. Although Respondent objects to possible future ex parte communications and/or motions that may be filed under seal, the Court will handle such communications and motions as they arise.

IT IS HEREBY ORDERED that this case be unsealed.

DATED this 13th day of April, 2012.

BY THE COURT:



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PAUL M. WARNER  
United States Magistrate Judge

FILED

United States Court of Appeals  
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

December 2, 2019

Elisabeth A. Shumaker  
Clerk of Court

TABERON DAVE HONIE,

Petitioner - Appellant,

v.

ROBERT POWELL, Warden,  
Utah State Prison

Respondent - Appellee.

No. 19-4158  
(D.C. No. 2:07-CV-00628-JAR-EJF)  
(D. Utah)

ORDER

Before **MURPHY**, Circuit Judge.

This matter is before the court *sua sponte* for case management purposes and on the *Motion to Continue Appointment of Counsel for Appeal* filed by counsel for Appellant. Upon consideration, the motion is granted. Pursuant to 18 U.S.C. §§ 3006A(c) and 3599(a)(2), the Office of the Federal Public Defender for the District of Arizona is appointed as counsel of record for Appellant, Taberon Dave Honie.

**Certification of Issues for Appeal**

Pursuant to 28 U.S.C. § 2253(c), and in accordance with the provisions of this order, Appellant may petition this court for issuance of a certificate of appealability (“COA”). Appellant’s motion for COA must be filed and served on or before January 30,

2020. Appellee's response to Appellant's motion shall be filed and served no later than March 2, 2020.

This court will have before it the record of proceedings from the district court. Accordingly, extensive briefing on the issues for which certification is sought is neither necessary nor required. On the other hand, the motion needs to be a stand-alone document. The motion should not incorporate by reference any filings made in the district court, but the motion may point out where in the district court filings more expansive arguments on the issue can be located. Most importantly, the motion must unambiguously and without obfuscation identify why an issue should be certified for appeal. There should be sufficient discussion of why the federal district court's resolution of an issue is debatable or why the issue otherwise warrants certification. If a claim is based on ineffective assistance of counsel, prosecutorial misconduct, or cumulative error, the motion must succinctly list and identify the specific instance(s) of ineffective assistance, misconduct, or error that support certification.

After the case management conference, the court will issue an order setting forth the issues that have been certified for appeal. That order will also set a deadline for Appellant to file a second motion seeking certification of any issues that were not certified by the district court or this court after the case management conference. If a second motion is filed, it will be referred to the panel of judges that will later be assigned to hear the appeal on the merits. The second motion for certification of issues for appeal will be decided after the already-certified issues are fully briefed.

## **Case Management Conference**

The case management conference in this appeal will take place via video conference at 4:00 p.m. Mountain Daylight Time on Wednesday, April 8, 2020. Counsel for Appellee shall report to the Clerk's Office of the U.S. District Court for the District of Utah at least fifteen minutes before the conference.

The principal purposes of the conference are to determine what issues will be certified for appeal, and to establish a briefing schedule and page lengths for the briefs. At least one week before the conference, counsel shall confer to discuss proposed brief lengths, a briefing schedule, and any other issues of concern. Prior to the conference, the parties may be contacted by court staff to discuss commitments that may affect the briefing schedule, and to confirm logistics for the case management conference.

Entered for the Court,

ELISABETH A. SHUMAKER, Clerk



by: Chris Wolpert  
Chief Deputy Clerk