

Supreme Court of the United States

United States of America,  
Plaintiff/Respondent

Cause No.

v.

Mark Eugene Benton, pro se,  
Defendant/Movant

Application to Extend  
Time to File a Petition  
for Writ of Certiorari

Comes now, Petitioner Mark E. Benton, pro se,  
and move this Honorable Court for an extension of 60  
days to file a Writ of Certiorari pursuant to  
USCS Supreme Court Rule 70.

This Court has Jurisdiction under USCS  
Supreme Court Rule 10.

In order to file a Writ of Certiorari, a petitioner  
is allotted 90 days from the date of entry of the  
entry of the final judgment in the United States  
Court of Appeals or highest state appellate court or  
90 days from the denial of a timely filed petition  
for rehearing.


Petitioner Benton timely filed a notice of  
appeal from judgment in Civil Case CV-23-54-  
BLA-SW on July 1, 2024 in the 9<sup>th</sup> Circuit  
Court of Appeals.



Benton has not received notice of filing or notice of decision from the 9<sup>th</sup> Circuit Court of Appeals, but on Feb. 12, 2025 Benton received from the District Court of Montana, Billings Division, Hon. Susan Watters, a decision in regard to a motion to compel, where in Judge Watters acknowledges the 9<sup>th</sup> Circuit's decision to deny deny the appeal. That document is enclosed. doc. A

Therefore, due to the fact that petitioner Benton does not know the date of decision to deny appeal by the 9<sup>th</sup> Circuit, Cause No. 24-4556, Benton prays this Honorable Court grant a 60 day extension to allow Benton time to contact the 9<sup>th</sup> Circuit and verify date.

Signed this Feb. 21, 2025.

Mark E. Benton, pro se  


Mark E. Benton, pro se  
2099272  
50 Crossroads Dr.  
Shelby, MT 59474

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION

UNITED STATES OF AMERICA,  
Plaintiff/Respondent,  
vs.  
MARK EUGENE BENTON,  
Defendant/Movant.

Cause No. CR 21-32-BLG-SPW

ORDER


On June 25, 2024, this Court denied Benton's motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255. *See*, (Doc. 54.) Benton had also requested that this Court assume jurisdiction of his state court matter; his request was denied. (*Id.* at 2-3.) It was explained to Benton that this Court lacks jurisdiction to sit in review of state court decisions. (*Id.*) Benton subsequently filed a notice of appeal. (Doc. 56.)

Benton also filed a motion asking this Court to compel his State Public Defender to provide him with a copy of his client file. (Doc. 55.) For the same reasons already explained to Benton, this Court lacks jurisdiction over his state court matter, *State v. Benton*, Cause No. DC-05-0343, including his state counsel. Moreover, once Benton filed his notice of appeal, this court lost jurisdiction over the matters Benton was litigating in his § 2255 motion. *See e.g., In re Bialac*, 694

F. 2d 625, 627. Regardless, the request is now moot, as the Ninth Circuit Court of Appeals recently denied Benton's appeal. (Doc. 58.)

For all of these reasons, IT IS HEREBY ORDERED that Benton's motion to compel (Doc. 55) is DENIED.

DATED this 12<sup>th</sup> day of February, 2025.

  
Susan P. Watters  
United States District Court

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on this 22 day of Feb., 2025

I served a true and correct copy of the foregoing:

Motion For Extension  
Of Time to file writ of Certiorari

upon:

Recipient 1: United States  
Supreme Court  
1 F.S.S. & A. N.E.  
Washington, DC 20543

Recipient 2: US 9th Circuit  
Court of Appeals  
PO Box 143939  
San Francisco, CA 94114-3939

Recipient 3: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Recipient 4: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

By submitting same to a designated civilian employee of the Department of Corrections for prompt processing and mailing by authorized prison personnel within the facility mail room, with sufficient first class postage affixed, and it shall be deemed filed as of the above date.

SIGNATURE: 

PRINT: Mark E. Benton, pro se

ADDRESS: 50 Crossroads Dr.  
Shelby, MT 59474  
\_\_\_\_\_

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

**FILED**

FEB 11 2025

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MARK EUGENE BENTON,

Defendant - Appellant.

No. 24-4556

D.C. Nos. 1:21-cr-00032-SPW-1

1:23-cv-00054-SPW

District of Montana,

Billings

ORDER

Before: BERZON and BADE, Circuit Judges.

The request for a certificate of appealability (Docket Entry Nos. 3, 6, 7, 8) is denied because appellant has not shown that “jurists of reason would find it debatable whether the [28 U.S.C. § 2255 motion] states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *see also* 28 U.S.C. § 2253(c)(2); *Gonzalez v. Thaler*, 565 U.S. 134, 140-41 (2012); *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003).

Any pending motions are denied as moot.

**DENIED.**