

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA**

FILED UNDER SEAL

In re:
HERBERT S. MONCIER
BPR NO. 1910

**PETITION FOR WRIT OF HABEAS CORPUS
AD TESTIFICANDUM FOR
JAMES MARK THORNTON**

Respondent and moves the court for a Writ of Habeas Corpus Ad Testificandum for James Mark Thornton to reappear and give testimony on behalf of Respondent.¹ In support Respondent would show as follows:

1. James Mark Thornton is a necessary and material witness and is expected to testify to explain what occurred on November 17, 2006 regarding a November 16, 2006 letter Neil Smith provided Respondent; that he was represented by an appointed attorney who, without his knowledge also represented another person in a related conspiracy; his appointed attorney had given Respondent permission to speak with him; he had contacted Respondent by telephone to talk to respondent on November 12, 2006; he told Respondent that the Supervision AUSA told his attorney that he was going to be sentence between 10 to 15 years based on his cooperation; he had earlier been promised 10 years by FBI Agent Kevin Keithly; that AUSA Neil Smith and FBI Agent Farrow came to him shortly before the trial of Vassar for him to testify against Vassar but he told them he had no drug dealings with Vassar; he was told by AUSA Smith and his

¹ Respondent anticipates that it may be difficult for the United States Marshall's service to transport federal prisoners within the time allotted. Respondent will be pleased to participate in a scheduling conference with the Court to discuss the timing of the proceedings.

attorney that if he didn't cooperate against Vassar he would not get any help on his sentence; he was called to testify at Vassar's trial by AUSA Smith and told the truth; after Vassar was found not guilty of the big stuff they pulled his sentencing agreement and recommended 327 months; he never made the statement in Neil Smith's November 26, 2006 letter; what he said about Harold Grooms in October 2006 was different from what is stated in Neil Smith's letter; he was present and ready to testify on November 17, 2006 at Vassar's sentencing but he was never called to testify; when he learned that Respondent had been removed from Vassar's case because of the statement that was attributed to him he wrote Respondent a letter because Respondent would not take his telephone calls; and in that letter he stated what was reported about his conversations with Vassar about Grooms was not correct.

2. James Mark Thornton is to appear before the Magistrate Judge Susan K. Lee, United States Courthouse, 900 Georgia Avenue, Room 401, Chattanooga, Tennessee 37402. The Clerk of said Court Geneva Ashby, Division Manager, Joel W. Solomon Federal Building, 900 Georgia Avenue, Room 308, Chattanooga, Tennessee 37402, (423) 752-5285. 3. This is a federal proceeding.

4. James Mark Vassar is to remain in the custody of the United States Marshall during the transportation to and from the Court and while waiting to testify.

5. James Mark Thornton is currently a federal prisoner under the custody of the United States Attorney at the Federal Bureau of Prisons, FCI Manchester, Kentucky. His prison number is 20601-074.

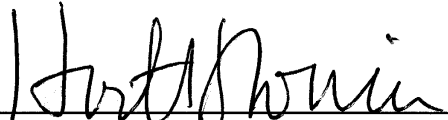
6. James Mark Thornton will be needed to testify in this case on March 5, 2008.

7. Agents of the United States Marshal's Office shall transport James Mark Thornton from FCI Manchester, in Manchester, Kentucky to Chattanooga, Tennessee and return said inmate to FCI Manchester, in Manchester, Kentucky at the direction of the court.

8. It Is anticipated that James Mark Thornton will be released to return to FCI Manchester before March 6, 2008.

WHEREFORE, Respondent moves this court to Issue a Writ of Habeas Corpus Ad Testificandum to the warden of the FCI Manchester in Manchester, Kentucky to produce James Mark Thornton to testify in this case.

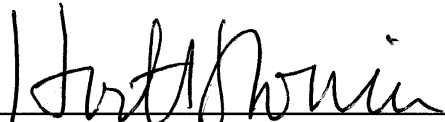
This 21st day of February 2008.


HERBERT S. MONCIER
Respondent

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BPR # 1910

Certificate

The undersigned certifies that on February 21, 2008, pursuant to the Court's directive, the foregoing Motion for Relief has been served only upon Geneva Ashby, Division Manager, 209 Joel. W. Solomon Federal Building and United States Courthouse, 900 Georgia Avenue, Chattanooga, TN 37402, by United States Mail, with proper postage thereon, to e filed under seal.


HERBERT S. MONCIER
Respondent