

**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
MICHAEL VASSAR**

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

1. Michael Vassar 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 wanted to discuss with Respondent the letter but Respondent advised him he needed to have the advice of independent counsel; that he would have explained to Respondent or independent counsel or the Court that the stating reported by Neil Smith was not true; that he did not make that statement to Mark Thornton; that he had no knowledge of Harold Grooms involvement in drugs; that he never told Mark Thornton that Harold Grooms had offered him drugs or had discussed drugs with Harold Grooms; that before Respondent agreed to represent Harold Grooms in early 2006 Respondent discussed his knowledge of Harold Grooms with him; he told Respondent that he had no knowledge of Harold Grooms being

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.

involved In drugs or any other illegal activity; that he told Judge Greer In March 2006, after Judge Greer learned Respondent represented Harold Grooms, that he did not know anything about any drug activities of Harold Grooms; that there was never any conflict by Respondent representing him and Harold Grooms at the said time; that he met with Respondent on Wednesday November 15th to prepare how to proceed at the sentencing hearing on Friday, prepared his statement, and went over witnesses Respondent was going to call and what they would testify to; one of his witnesses was Mark Thornton; that on the morning of November 17, 2007 he was transported to the Federal Courthouse In Greeneville for sentencing; he met with Respondent at the United States Marshall's office attorney booth shortly after 8:00 a.m. and was presented I with the November 16 letter from Neil Smith; that he was provided a letter from Respondent explaining that Respondent intended to get him an independent attorney to advise him about what Neil Smith said he said to Mark Thornton about Harold Grooms; Respondents instructed him not to discuss whether or not the statement reported by Neil Smith was true prior to the hearing for independent counsel; he kept trying to talk to Respondent during the morning hearing to tell Respondent that Neil Smith's statement was not true and he did not know anything about the alleged Harold Grooms drug activity; Respondent told him that Respondent was trying not to talk with him at that time because Respondent was concerned that Judge Greer would think Respondent was trying to influence him; after Judge Greer declined to appoint him as independent attorney he had still not talked to Respondent about Neil Smith's statement in the letter; he realized Judge Greer was upset with Respondent; when Judge Greer called a recess and before the Marshals took him back to his cell, he leaned over and told Respondent he did not want Respondent to withdraw and he wanted to go forward to the sentencing hearing; he realized that he would have to rethink calling Mark Thornton at the sentencing hearing if Thornton was going to say something that was not true that contradicted what was Vassar decided on Wednesday to present at the hearing; he thought by Respondent agreeing go forward with the sentencing hearing after lunch that resolved the matter, but, instead Judge Greer called him and Respondent to the podium; he thought that Judge Greer was trying to get me to get a new attorney to take over his case and he did not want that to happen; during Judge Greer's questioning he was confused and looking at Respondent trying to get Respondent to speak with him about what Judge Greer was getting at or trying to do; he didn't understand Judge Greer meant that Respondent could not speak to him; he has read the transcript at page 107 of what happened; when Respondent asked the question "May I

speak to my . . ." he hoped what Respondent was asking If he could speak to him because that is what he had been wanting and what Respondent said that he would do during the lunch break before the sentencing hearing; after Respondent was put in jail and Respondent and him were returned to the Courtroom after the lunch recess he was prohibited by the US Marshals from speaking to Respondent while at the defense table; the first opportunity he had to discuss Neil Smith's statement as to what Mark Thornton said was when he was with his new appointed attorney Clifford Coker; he explained to Mr. Coker that Neil Smith's statement about what I was supposed to have said to Mark Thornton about Harold Grooms was not true; Judge Greer reinstated Respondent in January 2007 and thereafter Respondent represented him before Judge Greer without incident.

2. Michael Vassar 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. Michael 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. Michael Vassar is currently a federal prisoner under the custody of the United States Attorney at the Federal Bureau of Prisons, Federal Correctional Institution Elkton, Lisbon, Ohio. His prison number Is 12826-074.


6. Michael Vassar will be needed to testify in this case on March 5, 2008.

7. Agents of the United States Marshal's Office shall transport Michael Vassar from Federal Correctional Institution Elkton, in Lisbon, Ohio to Chattanooga, Tennessee and return said Inmate to Federal Correctional Institution Elkton, in Lisbon, Ohio at the direction of the court.

8. It is anticipated that Michael Vassar will be released to return to Federal Correctional Institution Elkton before March 6, 2008.

WHEREFORE, Respondent moves this court to Issue a Writ of Habeas Corpus Ad Testificandum to the warden of the Federal Bureau of Prisons, Elkton, In Lisbon Ohio, to produce Michael Vassar to testify in this case.

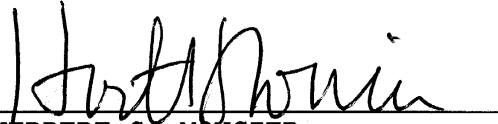
This 21st day of February 2008.


HERBERT S. MONCIER
Respondent

Herbert S. Moncier
Attorney at Law
Suite 775 Bank of America Center
550 Main Street
Knoxville, Tennessee 37902
(865)546-7746
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.

A handwritten signature in black ink, appearing to read "Herb Moncier", written over a horizontal line.

HERBERT S. MONCIER

Respondent