

JUN 22 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>CRAIG THOMAS DAWSON,</p> <p>Petitioner - Appellant,</p> <p>v.</p> <p>BRIAN BELLEQUE, Oregon State Penitentiary,</p> <p>Respondent - Appellee.</p>
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No. 07-36033

D.C. No. CV-06-00012-CMK

O R D E R

Appeal from the United States District Court
for the District of Oregon
Garr M. King, Senior District Judge, Presiding

Argued and Submitted November 2, 2010
Portland, Oregon

Before: W. FLETCHER and FISHER, Circuit Judges, and BURY,
District Judge.*

We construe this appeal as a motion under 28 U.S.C. § 2244(3) to file a
second or successive petition for habeas corpus. As jointly requested by the

*The Honorable David C. Bury, United States District Judge for the District
of Arizona, sitting by designation.

parties, we grant the motion. We direct the district court to allow Petitioner Craig Dawson to file his Second Amended Petition for Writ of Habeas Corpus. As jointly agreed by the parties, the district court shall consider the merits of Petitioner's Ex Post Facto claim. As jointly agreed by the parties, Superintendent Belleque shall waive all of his procedural defenses in the district court. Finally, as jointly agreed by the parties, each party shall bear his own costs and fees.