

*****Execution of Dustin Lee Honken Scheduled for January 15, 2020*****

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

**IN THE MATTER OF THE FEDERAL
BUREAU OF PRISONS' EXECUTION
PROTOCOL CASES,**

Lead case: *Roane et al. v. Barr et al.*

Case No. 19-mc-00145-TSC

THIS DOCUMENT RELATES TO:

***Lee v. Barr et al.*, No. 19-cv-2559**

**UNOPPOSED MOTION TO INTERVENE BY DUSTIN LEE HONKEN AND
INCORPORATED MEMORANDUM OF LAW IN SUPPORT**

Federally death-sentenced prisoner Dustin Lee Honken, who is scheduled for execution on January 15, 2020, hereby moves, pursuant to Fed. R. Civ. P. 24(a) and (b), to intervene in the case of *Lee v. Barr et al.*, No. 19-cv-2559. Plaintiff-Intervenor Honken states as follows in support of this motion:

1. Plaintiff-Intervenor Honken is under a sentence of death and has been scheduled by the Attorney General for execution on January 15, 2020.

2. Mr. Honken faces execution by the same method that the Defendants announced on July 25, 2019, which method is the subject of the suit brought by Plaintiff Daniel Lewis Lee.

3. Pursuant to Fed. R. Civ. P. 24(c) as well as Local Civil Rule 7(j), Mr. Honken's proposed complaint is attached to this motion as Exhibit 1. The complaint itself includes Exhibits A through O.

4. Under Rule 24(a), a party is entitled to intervention as of right when that party "claims an interest relating to the property or transaction that is the subject of the action, and is so

situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest." Mr. Honken's motion satisfies those standards. He has an interest in the "transaction" that is the subject of Mr. Lee's lawsuit, i.e., the federal government's development and implementation of a new execution protocol, and its scheduling of execution dates against Mr. Lee, Mr. Honken, and three other prisoners. Without participating in the litigation of claims that he shares or substantially shares with Mr. Lee, the separate interests that Mr. Honken has may be impaired by the Court's determination of the legal issues brought by Mr. Lee and the Defendants, or by any determinations that might be reached by higher courts.

5. Permissive intervention under Rule 24(b) is similarly appropriate. Such intervention lies when, among other circumstances, the party "has a claim or defense that shares with the main action a common question of law or fact." In this instance, Mr. Honken brings numerous claims against the Defendants' 2019 Protocol, including several that parallel or substantially overlap Mr. Lee's claims. *Compare* Ex. 1 (attached), *with* Lee ECF Doc. 1 (complaint)

6. Intervention is also justified as a matter of convenience to the parties and the Court. Logistically it is simpler for Mr. Honken to intervene in Mr. Lee's suit rather than filing his own suit against the same defendants. If Mr. Honken were to file such a separate suit, the Court would likely consolidate it with Mr. Lee's suit as well as the other federal lethal injection cases that are before it. Little purpose would be served by the expense and trouble of a formally separate lawsuit.

7. Undersigned counsel has contacted counsel for the Defendants, who stated that the Defendants have no objection to the requested intervention. Undersigned counsel has also contacted counsel for Mr. Lee, who stated that Mr. Lee takes no position on the intervention of Mr. Honken.

WHEREFORE, for all the foregoing reasons, Plaintiff-Intervenor Dustin Lee Honken respectfully requests, pursuant to Fed. R. Civ. P. 24(a) and 24(b), he be granted leave to intervene in the case of *Lee v. Barr et al.*, No. No. 19-cv-2559; that the Court file the proposed intervenor-complaint that is attached to this motion; and that the Court grant such other and further relief as may be fair, just, and equitable under the circumstances.

Dated: 11/1/2019

Respectfully Submitted,

/s/ Jon Jeffress

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Counsel for Plaintiff-Intervenor Dustin Lee Honken

CERTIFICATE OF SERVICE

I certify that on November 1, 2019, a copy of the foregoing motion, together with the proposed complaint and exhibits thereto, were filed using the CM/ECF system, which will then send notification of such filing to all counsel of record.

/s/ Jon Jeffress

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