

UNITED STATES COURT OF APPEALS  
FOR THE TENTH CIRCUIT

Plaintiff/Petitioner - Appellant,  v.   Defendant/Respondent - Appellee.	Case No. _____  Appellant/Petitioner's Opening Brief <b>and</b> Application for Certificate of Appealability
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**NOTICE AND INSTRUCTIONS**

If you proceed on appeal pro se, the court will accept a properly completed Form A-12 in lieu of a formal brief. This form is intended to guide you in presenting your appellate issues and arguments to the court. If you need more space, additional pages may be attached. A short statement of each issue presented for review should precede your argument. Citations to legal authority may also be included. This brief should fully set forth all of the arguments that you wish the court to consider in connection with this case.

New issues raised for the first time on appeal generally will not be considered. An appeal is not a retrial but rather a review of the proceedings in the district court. A copy of the completed form must be served on all opposing counsel and on all unrepresented parties and a proper certificate of service furnished to this court. A form certificate is attached.

## **APPELLANT/PETITIONER'S OPENING BRIEF**

**1. Statement of the Case.** (This should be a brief summary of the proceedings in the district court.)

**2. Statement of Facts Relevant to the Issues Presented for Review.**

**3. Statement of Issues.**

**a. First Issue:**

**Argument and Authorities:**

**b. Second Issue:**

**Argument and Authorities:**

**4. Do you think the district court applied the wrong law? If so, what law do you want applied?**

**5. Did the district court incorrectly decide the facts? If so, what facts?**

**6. Did the district court fail to consider important grounds for relief? If so, what grounds?**

**7. Do you feel that there are any other reasons why the district court's judgment was wrong? If so, what?**

**8. What action do you want this court to take in your case?**

**9. Do you think the court should hear oral argument in this case? If so, why?**

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Date

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Signature

**CERTIFICATE OF SERVICE**

**I hereby certify that on \_\_\_\_\_ I sent a copy of**  
**(date)**  
**the Appellant/Petitioner’s Opening Brief to \_\_\_\_\_**  
**\_\_\_\_\_, at \_\_\_\_\_**  
**(Opposing Party or Attorney)**  
**\_\_\_\_\_, the last known address, by**  
**United States mail or courier.**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

## NOTICE AND INSTRUCTIONS

Your application for a certificate of appealability will be evaluated by the court using these standards:

**Certificate of Appealability.** There must be a substantial showing of the denial of a constitutional right by demonstrating that the issues raised are debatable among jurists, that a court could resolve the issues differently, or that the questions deserve further proceedings. 28 U.S.C. § 2253(c); *Lennox v. Evans*, 87 F.3d 431 (10th Cir. 1996).

**FAILURE TO SET FORTH FACTS AND ARGUMENTS SHOWING THAT YOU MEET THE APPROPRIATE STANDARD WILL SUBJECT YOUR APPEAL TO DISMISSAL WITHOUT FURTHER NOTICE.**

You may use this form to furnish a statement of the case, the issues you intend to raise on appeal, and the reasons your appeal meets the applicable standards. The form is intended to guide you in meeting the above standards. If you need more space to answer, additional pages may be attached. The information you furnish, together with the full record of the proceedings in the district court, will be the basis for this court's decision. You should bear in mind that an appeal is not a retrial, but rather a **review** of the district court's judgment and record of proceedings.

**APPELLANT/PETITIONER’S APPLICATION FOR  
A CERTIFICATE OF APPEALABILITY**

**1. Statement of the Case.** (This should be a brief summary of the proceedings in the district court.)

**2. Issues to be Raised on Appeal.** (New issues raised for the first time on appeal generally will not be considered.)

**3. Summary of Your Argument Showing that Your Appeal Meets the Appropriate Standards.**

**4. Do you think the district court applied the wrong law? If so, what law do you want applied?**

**5. Did the district court incorrectly decide the facts? If so, what facts?**

**6. Did the district court fail to consider important grounds for relief? If so, what grounds?**

**7. Do you feel that there are any other reasons why the district court's judgment was wrong? If so, what?**

**8. What action do you want this court to take in your case?**

**9. Were you required to seek and exhaust administrative remedies prior to filing your claim in district court? If yes, what steps did you take to exhaust those remedies?**

\_\_\_\_\_

Date

\_\_\_\_\_

Signature

**CERTIFICATE OF SERVICE**

**I hereby certify that on \_\_\_\_\_ I mailed a copy of  
(date)  
the Certificate of Appealability:**

**to \_\_\_\_\_, at \_\_\_\_\_  
\_\_\_\_\_, the last known address.**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature