

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
3:75-CR-26-3  
5:06-CV-24-F

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UNITED STATES OF AMERICA	)
	)
v.	)
	)
JEFFREY R. MacDONALD	)
Defendant	)

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**UNOPPOSED MOTION TO EXTEND TIME TO DESIGNATE DEPOSITIONS**

NOW COMES defendant, Jeffrey R. MacDonald, by and through his undersigned counsel, and moves this Court to extend the time for the parties to file affidavits listing the people they wish to depose. This Court had previously set 22 June 2012 as the date on which these affidavits were to be filed. For the reasons stated herein, defendant requests that he have until 27 June 2012 in which to file his affidavit, and that the government have until 29 June 2012 in which to file its affidavit. The undersigned is informed and believes the government agrees with this revised schedule. In support of this motion, defendant shows the following:

1. This matter is before the Court on remand from the United States Court of Appeals for the Fourth Circuit for an evidentiary hearing on defendant’s motion to vacate under 28 U.S.C. § 2255 at which a determination of the issues in the motion must be assessed on the basis of the “evidence as a whole” under 28 U.S.C. § 2255(h)(1). *United States v.*

*MacDonald*, 641 F.3d 596, 610-17 (4<sup>th</sup> Cir. 2011). After receiving input from the parties, this Court has scheduled the hearing for 20 August 2012.

2. On 8 June 2012, this Court entered an order indicating it would consider only the “Britt” claim and the “DNA” or “unsourced hairs” claim at this hearing. It indicated it would withhold further analysis of “the IPA motion” until after the hearing. The Court further suggested the parties might wish to depose various people in advance of the evidentiary hearing and directed the parties to file individual affidavits stating whether they wish to take depositions and identify the proposed deponents.

3. The undersigned has been involved in a number of other matters since the entry of this order and has not had sufficient time to determine the people he would like to depose. These activities have included two briefs in the North Carolina Court of Appeals and three lectures at several continuing legal education programs. He has spoken with opposing counsel, First Assistant United States Attorney John S. Bruce, about this matter. The parties agree some additional time would be appropriate and ask this Court to allow defendant to have until 27 June 2012 in which to file his affidavit and the government to have until 29 June 2012 in which to file its affidavit.

4. In light of these circumstances, the interests of justice would best be served by allowing defendant to have until 27 June 2012 in which to file his affidavit and the government to have until 29 June 2012 in which to file its affidavit. A proposed order is attached.

WHEREFORE, Jeffrey R. MacDonald respectfully requests that this Court allow him to have until 27 June 2012 in which to file his affidavit and the government to have until 29 June 2012 in which to file its affidavit.

This the 21<sup>st</sup> day of June, 2012.

**RUDOLF WIDENHOUSE & FIALKO**

/s/ M. Gordon Widenhouse, Jr.

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**CERTIFICATE OF SERVICE**

I hereby certify that on 30 March, 2012, I electronically filed the foregoing Unopposed Motion to Extend Time to Designate Depositions with the Clerk of Court using the CM/ECF system which will send notification of such filing to counsel of record in this matter.

**RUDOLF WIDENHOUSE & FIALKO**

/s/ M. Gordon Widenhouse, Jr.

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