

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

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

**UNOPPOSED MOTION FOR ONE WEEK EXTENSION OF TIME
TO FILE DEFENDANT’S REPLY TO GOVERNMENT’S POST-HEARING
MEMORANDUM**

NOW COMES defendant, Jeffrey R. MacDonald, by and through his undersigned counsel, with the consent of the government, and moves this Court to extend the time for the filing of defendant’s post-hearing memorandum, allowed by this Court [DE 346], for one week, to and including 14 August 2013. This additional time is necessitated by the length of the materials to be reviewed and the workload of the undersigned. In further support of this request, 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 determination of defendant’s motion to vacate under 28 U.S.C. § 2255, a determination of the issues in the motion that 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 (4th Cir. 2011). This Court conducted a hearing from September 17 through

September 25. It allowed the parties to file post-hearing memoranda regarding the legal issues and the factual matters based on the evidence as a whole once the transcript of the hearing was completed. Both parties have filed their post-hearing memoranda.

2. On 6 July 2013, this Court granted defendant's motion to file a reply to the government's post-hearing memorandum. [DE 346] The government was also allowed to file a sur-reply, if desired, within thirty days after defendant files his reply. Defendant's reply is due to be filed on 7 August 2013.

3. As this Court is aware, the undersigned has been heavily involved in other litigation. Since the Court granted the initial motion to extend, the undersigned filed two petitions for writs of certiorari, served a proposed record on appeal, and worked on a brief in the state appellate courts. In addition, the undersigned has been involved in several matters that required him to be out of the office. Furthermore, the government's post-hearing memorandum is approximately 200 pages accompanied by two notebooks of exhibits. It has required an extensive amount of time to read and digest.

4. The undersigned has been diligently working on this memorandum. But he genuinely needs an additional week to complete it.

5. The undersigned has communicated with opposing counsel, First Assistant United States Attorney John S. Bruce, who has consented to this extension of time.

6. This extension of one week is reasonable. The interests of justice would best be served by extending the time for one week, to 14 August 2013.

7. Based on these considerations, defendant respectfully requests that the time for

filing his reply to the government's post-hearing memorandum be extended to 14 August 2013. A proposed order is attached.

WHEREFORE, Jeffrey R. MacDonald respectfully requests that this Court extend the time for filing of his reply to the government's post-hearing memorandum to 14 August 2013.

This the 5th day of August, 2013.

RUDOLF WIDENHOUSE & FIALKO

/s/ M. Gordon Widenhouse, Jr.

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Attorney for Jeffrey R. MacDonald

CERTIFICATE OF SERVICE

I hereby certify that on 5 August 2013, I electronically filed the foregoing Unopposed Motion for One Week Extension of Time to File Defendant's Reply to Government's Post-Hearing Memorandum 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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UNITED STATES OF AMERICA)
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JEFFREY R. MacDONALD,) **ORDER**
Defendant)
_____)

The matter is before the Court on defendant's Unopposed Motion for One Week Extension of Time to File Defendant's Reply to Government's Post-Hearing Memorandum, currently due on 7 August 2013. The government has consented to this request. Given the workload of defendant's counsel and the length of the government's post-hearing memorandum, the requested extension of time is reasonable. Therefore, for good cause shown, the motion is ALLOWED. The defendant shall file his Reply to the Government's Post-Hearing memorandum on or before 14 August 2013.

This the ____ day of August, 2013.

JAMES C. FOX
Senior United States District Judge