

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

No. 15-7136

UNITED STATES OF AMERICA,

Appellee,

v.

JEFFREY R. MACDONALD

Appellant.

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**APPELLANT’S MOTION TO EXTEND TIME  
TO FILE INFORMAL OPENING BRIEF**  
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NOW COMES APPELLANT Jeffrey R. MacDonald, through undersigned counsel, and respectfully moves this Court for an extension of sixty (60) days, to and including October 13, 2015, to file Appellant’s Informal Opening Brief in this matter. In support of this Motion, Appellant shows the Court the following:

1. Appellant was convicted in the United States District Court for the Eastern District of North Carolina in August 1979 of one count of first degree murder and two counts of second degree murder, involving the deaths of his wife and young daughters. This appeal is the appeal of the district court’s order denying Appellant’s Motion to Vacate his Conviction under 28 U.S.C. § 2255, after an

evidentiary hearing on remand resulting from this Court's most recent opinion in this matter. *See United States v. MacDonald*, 641 F.3d 596 (4th Cir. 2011). Appellant filed a timely Notice of Appeal from the district court's order denying his § 2255 motion on July 16, 2015.

2. On July 21, 2015, this Court entered an informal preliminary briefing order in this appeal, setting the deadline for the filing of an informal opening brief by Appellant for August 14, 2015.

3. Undersigned counsel has just been retained to represent Appellant in this appeal and today entered a Notice of Appearance.

4. Undersigned counsel requests an extension of time of sixty (60) days to prepare and file the informal opening brief in this matter, for the following reasons:

a. While undersigned counsel did represent Appellant in his previous appeal to this Court that resulted in the remand to the district court in 2011, undersigned counsel had no involvement in the evidentiary hearing and prosecution of Appellant's § 2255 motion on remand. The evidentiary hearing in the district court on Appellant's § 2255 motion took place in September 2012 and lasted seven (7) court days. It involved hundreds of new exhibits, in addition to the voluminous record of the case that existed previously (which itself spans a more than thirty (30) year time period). Though undersigned counsel is familiar with the

record of this case prior to the 2011 remand, undersigned counsel has no familiarity at all with the evidentiary hearing evidence and the exhibits introduced at the evidentiary hearing, which number in the hundreds. The order denying Appellant's § 2255 motion is 169 pages long. Additional time is necessary for undersigned counsel to review the transcripts and exhibits from the evidentiary hearing, as well as the extensive post-hearing briefing done by the parties, before undersigned counsel can draft the informal opening brief.

b. Given the unusually massive size of the record in this case, and the more than thirty-year prior litigation history that is also relevant to this appeal, an extension of sixty (60) days is requested to permit undersigned counsel to review the materials, and draft the informal opening brief.

5. Undersigned counsel has contacted AUSA John Bruce, one of the prosecutors handling this matter, and Mr. Bruce states that the Government does not oppose this Motion.

WHEREFORE, Appellant respectfully requests that this Motion be granted, and that the deadline for the filing of the informal opening brief be extended by sixty (60) days, to and including October 13, 2015.

This the 10th day of August, 2015.

/s/ Joseph E. Zeszotarski, Jr.  
Joseph E. Zeszotarski, Jr.  
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#### CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing MOTION was served through the electronic service function of the Court's electronic filing system, addressed as follows:

John Bruce  
Assistant United States Attorney  
310 New Bern Avenue  
Raleigh, NC 27601

This the 10th day of August, 2015.

/s/ Joseph E. Zeszotarski, Jr.  
Counsel for Appellant