

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 15-7136

UNITED STATES OF AMERICA,

Appellee,

v.

JEFFREY R. MACDONALD

Appellant.

**MOTION TO EXTEND TIME TO FILE FINAL FORM OPENING BRIEF,
RESPONSE BRIEF, AND ANY REPLY BRIEF**

NOW COMES APPELLANT Jeffrey R. MacDonald, through undersigned counsel, and respectfully moves this Court for an extension of seven (7) days, to and including September 6, 2016, for the parties to file the Final Form Opening Brief, Response Brief, and any Reply Brief. The Government joins in this Motion. 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).

2. The Court has approved a deferred appendix schedule in this case.

The current briefing schedule has the following deadlines:

Appellant's Page-Proof Opening Brief:	6/7/2016
Appellee's Page-Proof Response Brief:	8/2/2016
Filing of Appendix:	8/16/2016
Opening Brief, Response Brief & any Reply Brief in final form:	8/29/2016

The page proof opening brief and response brief have been filed by Appellant and the Government in accordance with these deadlines.

3. The Joint Appendix was filed by Appellant on August 16, 2016. Because of the expansive record of the record in this case during the 30+ years of litigation, the joint appendix is in seven (7) volumes and contains a total of 4632 pages.

4. A problem has arisen with the numbering of the Joint Appendix and the interaction of the some numbers with existing ECF markings on the documents in the Joint Appendix, such that the joint appendix page number is not visible in several volumes of the current Joint Appendix. As a result, Appellant's counsel is

assembling and will be refiling several volumes of an Amended Joint Appendix to correct this numbering problem.

5. Given this occurring and the time incurred in dealing with this issue, the parties respectfully request that they be permitted additional time to submit the final form Opening Brief, Response, Brief, and any Reply Brief, and ask that the deadline be extended by seven (7) days to September 6, 2016.

6. Undersigned counsel has discussed with Motion with AUSA Leslie Cooley and Ms. Cooley states that the Government joins in the Motion.

WHEREFORE, Appellant respectfully requests that this Motion be granted, and that the deadline for the filing of the final form Opening Brief, Response Brief, and any Reply Brief be extended to and including September 6, 2016.

This the 24th day of August, 2016.

/s/ Joseph E. Zeszotarski, Jr.
Joseph E. Zeszotarski, Jr.
N.C. State Bar No. 21310
Gammon, Howard & Zeszotarski, PLLC
115 ½ West Morgan Street
Raleigh, NC 27601
(919) 521-5878
jzeszotarski@ghz-law.com
Counsel for Appellant

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
Acting United States Attorney
310 New Bern Avenue
Raleigh, NC 27601

This the 24th day of August, 2016.

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