

THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 3:75-CR-26-3
No. 5:06-CV-24-F

UNITED STATES OF AMERICA

vs.

JEFFREY R. MacDONALD
Defendant.

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MOTION TO EXTEND TIME

NOW COMES the defendant, Jeffrey R. MacDonald, by and through his attorney, and moves to extend the time allowed to reply to the Government's Response to Motion Entitled "Request for Hearing." [DE-229].

1. The Defendant filed the Request for Hearing [DE-175] and Motion for a New Trial Pursuant to the Innocence Protection Act [DE-176] on September 20, 2011.

2. At the Status Conference on September 21, 2011, the Court set the evidentiary hearing for October 31, 2011. In addition, the Court issued an order directing the Government to respond to Defendant's Motion for a Hearing and Motion for a New Trial by December 1, 2011 [DE-179].

3. On November 8, 2011, the Court issued an Order continuing the evidentiary hearing to the week of April 30, 2012 [DE-201].

4. The Government filed a Motion for Extension of Time to File a Response to Pending Motions on November 9, 2011 [DE-202].

5. On November 10, 2011, the Court granted the Government's Motion for Extension and extended the deadline for the Government's response to Motion for Hearing to December 13, 2011 and the Defendant's reply to January 6, 2012 [DE-204].

6. The Government filed the Response to Motion Entitled "Request for Hearing" on December 13, 2011 [DE-229]. Additionally, the Government filed the Response to Motion for a New Trial Pursuant to

18 U.S.C. § 3600 on December 12, 2011 [DE-212] and its Response to Motion for Additional DNA Testing on December 13, 2011 [DE-227].

7. The Defendant filed his Motion to Extend Time to reply to the Government's Response to Motion for a New Trial Pursuant to 18 U.S.C. § 3600 and the Government's Response to Motion for Additional DNA Testing on December 27, 2011 [DE-230].

8. This Court granted Defendant's Motion to Extend Time on December 28, 2011, extending the deadline to February 17, 2012 [DE-231].

9. The Defendant will file replies to the Government's Response to Motion for a New Trial and the Government's Response to Motion for Additional DNA Testing on February 17, 2012.

10. The Government has requested that the Court "withhold a decision on whether to hold a hearing on Defendant's DNA claim until the Defendant has replied to the Government's responses." [DE-229 at 9].

11. Christine Mumma agreed to join Defendant's prior counsel in order to assist with The Innocence Protection Act claim before the Court. Ms. Mumma was not retained to represent Defendant in the § 2255 claim.

12. As of November 18, 2011, Christine Mumma was the sole attorney representing the Defendant while appointed counsel was being determined.

13. Defendant requested lead counsel be appointed by the Court to represent him on the § 2255 claims.

14. On November 30, 2011, Ms. Sue Berry was appointed to represent the Defendant and filed a Notice of Appearance in this case.

15. On February 5, 2012, lead counsel for the Defendant, Ms. Sue Berry, submitted a Motion to Withdraw as Counsel of Record. DE-232.

16. Defendant's reply to DE-229 had not been submitted at the time of the filing of the Motion to Withdraw as Counsel of Record.

17. Defendant acknowledges that the deadline for submitting a reply to DE-229 has lapsed.

18. The undersigned has contacted Mr. John Bruce, First Assistant U.S. Attorney. He has stated that the Government is not opposed to this motion.

19. The Defendant respectfully requests an extension of time to complete and file the reply to the Government's Response to Motion Entitled "Request for Hearing" until after the question of lead counsel has been resolved.

Respectfully submitted, this the 16th day of February, 2012.

/s/ Christine Mumma
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CERTIFICATE OF SERVICE

The undersigned certifies that on February 16, 2012, the foregoing **MOTION TO EXTEND TIME** was electronically filed with the Clerk of Court, United States District Court for the Eastern District of North Carolina, using the CM/ECF system. The CM/ECF system will send electronic notification of such filing to all parties.

/s/ Christine Mumma
Christine Mumma
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ORDER

For good cause shown, this Court hereby grants the Defendant's motion to extend time for his reply to the Government's Response to Motion Entitled "Request for Hearing" [DE-229], until after the issue of defendant's lead counsel is resolved.

SO ORDERED, this the ____ day of February, 2012.

JAMES C. FOX
SENIOR UNITED STATES DISTRICT JUDGE