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U.S. COURT OF APPEALS
FOR THE FOURTH CIRCUIT

IN THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

UNITED STATES OF AMERICA

v.

JEFFREY R. MACDONALD

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No. 14-7543

MOTION FOR EXTENSION
TO FILE OPENING BRIEF
IPA APPEAL (18 U.S.C. § 36)

TO THE HONORABLE CLERK OF THE FOURTH CIRCUIT COURT OF APPEALS:

NOW COMES the Defendant, Jeffrey R. MacDonald, requesting additional time to file the opening brief in the above captioned case.

In support of this Motion, the Defendant provides the Court with the following:

1. Defendant is acutely aware that this Court has graciously allowed several extensions thus far, and sincerely regrets requesting another due to circumstances beyond his control.
2. Earlier extensions involved the need to secure pro bono counsel; upon doing so there were delays for attorney William M. Palmer to acquaint himself with the issues.
3. Mr. Palmer then had to withdraw due to a myriad of personal issues that prevented him from producing the necessary work product.
4. While searching for new counsel on the IPA-related appeal, Defendant became aware of the need to change lead counsel on his 2255-related appeal (15-7136)
5. During the weeks intervening, Defendant had to focus on obtaining new lead counsel; whether new counsel would then absorb the IPA-related appeal was unknown.
6. Lead counsel Joseph Zsezotarski entered his appearance on August 10, 2015. There have been significant communication problems in trying to get this Court's notices to Defendant's wife given that he has no control over the timeliness of his mail being monitored and mailed out.

7. Defendant sent the notices to his wife as she acts on his behalf to facilitate communications and exercise her Power of Attorney when necessary.
8. Defendant's wife did not receive this Court's notices until August 12, 2015.
9. Defendant's wife contacted the Clerk's office several times, including August 14 and August 21, 2015 in an effort to keep the Court apprised of the factors causing more delays.
10. New lead counsel has diligently been working to get up to speed on the habeas appeal issues. Defendant was just advised August 21, 2015, that a motion to extend on the IPA appeal would be ideal if this Court would see fit to grant it. He was unaware of the status or deadlines involving it as his appearance was entered strictly on the 2255 appeal heretofore.
11. Defendant pleads for more time to evaluate how to proceed on the IPA appeal, who should handle it, and how it fits in with counsel's overall strategy. Defendant respectfully suggests that and with the monumental changes inherent in with new counsel, a request for additional time is prudent.
12. Although considered separately by the District Court, Defendant suggests it would serve the need for judicial economy if the IPA appeal and the 2255 appeal could be considered at or near the same time.
13. Importantly, until the 2255 appeal is filed, one would only be guessing as to how to best represent the issues, because the "secondary" appeal is, Defendant would contend, dependent on the first
14. . The Defendant affirms his understanding that the 2255 appeal and the IPA appeal were viewed separately by the District Court, but they were always viewed with the 2255 matter first and the IPA matter second. Defendant contends that the IPA appeal is dependent on the strategy and argument set forth in the pending 2255 appeal, and therefore it makes sense that it not be presented to the Court first
15. Defendant respectfully suggests that he cannot provide his best efforts to this Court without knowledge of new lead counsel's strategy.

WHEREFORE, the undersigned respectfully requests that this Motion be granted and that Defendant IPA-related briefing schedule be delayed until or after September 30, 2015.

This is the 22nd day of August 2015.

 

Jeffrey R. MacDonald
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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing MOTION TO EXTEND TIME
via first class mail:

John S. Bruce
First Assistant U.S. Attorney
310 New Bern Avenue
Raleigh, NC 27601

This is the 22nd day of August 2015.