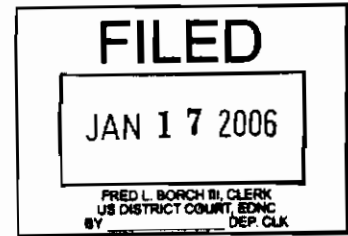


UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA



UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.) Crim. No. 75-26-CR-3
)
 JEFFREY R. MacDONALD,)
)
 Applicant/Defendant,)

**MOTION OF JEFFREY MacDONALD FOR LEAVE TO FILE A
MEMORANDUM IN SUPPORT OF HIS MOTION UNDER 28 U.S.C. SECTION
2255 TO VACATE HIS SENTENCE WHICH EXCEEDS THE 30 PAGE LIMIT SET
FORTH IN LOCAL RULE 7.2**

Petitioner, Jeffrey MacDonald, respectfully seeks leave to file a Memorandum in Support of His Motion Under 28 U.S.C. Section 2255 which exceeds the 30 page limit set forth in local rule 7.2.

As grounds for this request, petitioner states as follows:

1. Petitioner has sought and received the authorization of the United States Court of Appeals for the 4th Circuit to file in this court a successive Motion Under 28 U.S.C. section 2255 to Vacate His Sentence.

2. Petitioner's Motion Under 28 U.S.C. Section 2255 to Vacate His Sentence was filed before this court on January 17, 2006, and is based on newly discovered evidence of a constitutional deprivation, that taken together with all of the other available evidence proves petitioner's innocence.

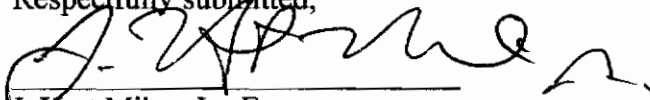
3. Petitioner's original conviction for murder was in 1979. Since then he has filed prior habeas challenges to his conviction in 1984, 1990, a motion to reopen the 1990 proceeding in 1997, and a 1997 motion for authorization to file a successive habeas application. While none of these dealt with the newly discovered evidence that forms the predicate for the successive motion that he has now filed, they have created an expansive record of new evidence supporting petitioner's claim of innocence, that pursuant to petitioner's motion, must be considered in addition to the evidence that was adduced at petitioner's original trial.

4. Petitioner, in order to prevail on his new application, must establish both that he has newly discovered evidence of a constitutional deprivation that could not have previously been discovered through due diligence, and that he meets the standard for factual innocence required under 28 U.S.C. Section 2255. Regarding the latter, the statute requires an analysis of all of the evidence that is available, both that which was adduced at trial, and that which has come to light since the trial.

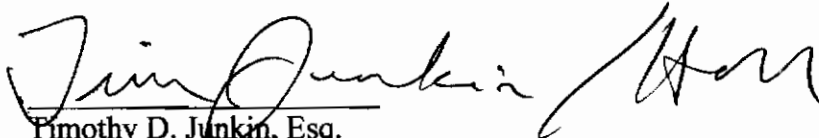
5. In order to fairly address this complex array of evidence in his Memorandum, and explain how it supports petitioner's claim of innocence, a detailed and in-depth presentation of facts and argument is necessary, and as such petitioner requires leave to exceed the 30 page limit set forth in local rule 7.2.

WHEREFORE, Petitioner respectfully requests leave to file the attached Memorandum in Support of his Motion Under 28 U.S.C. Section 2255, (which is 46 pages in length and contains 10 supporting exhibits), despite the fact that it exceeds the 30 page limit set forth in local rule 7.2.

Respectfully submitted,



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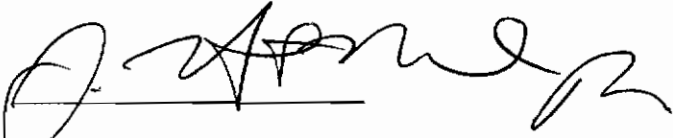
Certificate of Service

I hereby certify that a copy of this motion and accompanying proposed Order were mailed by me, first class mail, postage pre-paid, on the 17 day of Jan, 2006, to the United States Attorney for the Eastern District of North Carolina, at the following address:

Honorable Frank D. Whitney
United States Attorney
Att. Anne M. Hayes, Chief, Appellate Section
Terry Sanford Federal Building
310 New Bern Avenue, Suite 800
Raleigh, North Carolina 27601-1461

And to U.S. Justice Department counsel of record at the following address:

Brian Murtaugh, Senior Trial Attorney
U.S. Department of Justice
Domestic Security Section, Room 6747
Criminal Division
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530

A handwritten signature in black ink, appearing to read "J. Hart Miles, Jr.", written over a horizontal line.

J. Hart Miles, Jr., Esq.