

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
3:75-CR-26-3
5:06-CV-24-F

UNITED STATES OF AMERICA)
)
v.)
)
JEFFREY R. MacDONALD)
Defendant)

UNOPPOSED MOTION TO EXTEND TIME TO FILE REPLY

NOW COMES defendant, Jeffrey R. MacDonald, by and through his undersigned counsel, with the consent of the United States, and moves this Court to extend the time for filing his reply to the government’s response to his motion for an evidentiary hearing to 13 April 2012. In support of this request, defendant shows the following:

1. This matter is before the Court on remand from the United States Court of Appeals for the Fourth Circuit. *United States v. MacDonald*, 641 F.3d 596, 610-17 (4th Cir. 2011). On 20 September 2011, defendant moved for an evidentiary hearing regarding DNA testing. [DE-175] The government filed a response to this motion on 13 December 2011. [DE-229] Both defendant’s prior retained and court-appointed counsel have been allowed to withdraw. This Court extended the time for filing defendant’s reply on 21 February 2012. [DE 239] In the order, this Court allowed defendant thirty days from the time court-appointed counsel was

allowed to withdraw to file his response.

2. The undersigned formally made an appearance in this matter on 14 March 2012. Before the entry of this appearance, the undersigned had no role in the representation of defendant and had only passing familiarity with it. He did not realize, until reading the government's response to his motion to continue over the past weekend, that the time for filing a reply to the government's response to this motion was apparently due to be filed on 21 March 2012, thirty days after court-appointed counsel withdrew, rather than 13 April 2012, thirty days after the undersigned entered his notice of appearance.

3. Since making a formal appearance, the undersigned has been diligently reviewing materials in this matter that are voluminous. He had been proceeding under his belief that the reply was not due to be filed until 13 April 2012.

4. On 2 April 2012, this Court entered an order continued in the evidentiary hearing from April 30 until either August 20 or September 17. The undersigned has since continued to assimilate information about this matter and been made aware of the time for filing the reply to the government's response. He asks this Court to extend the time to 13 April 2012, the date he mistakenly believed the reply was due. In light of the evidentiary hearing being continued until either August or September, this extension of time will not adversely affect the schedule and disposition of this matter.

5. The undersigned has communicated with First Assistant United States Attorney John S. Bruce who has no objection to this extension of time.

6. The interests of justice be served by allowing this extension of time to 13 April 2012. A proposed order to that effect is filed with this motion.

WHEREFORE, Jeffrey R. MacDonald respectfully requests that the time for filing his reply to the government's response [DE-229] be extended to 13 April 2012.

This the 3rd day of April, 2012.

RUDOLF WIDENHOUSE & FIALKO

/s/ M. Gordon Widenhouse, Jr.

N.C. State Bar #10107

312 West Franklin Street

Chapel Hill, NC 27516

Telephone: 919-967-4900

Telefax: 919-967-4953

Email: mgwidenhouse@rwf-law.com

Attorney for Jeffrey R. MacDonald

CERTIFICATE OF SERVICE

I hereby certify that on 3 April, 2012, I electronically filed the foregoing Unopposed Motion to Extend Time to File Reply with the Clerk of Court using the CM/ECF system which will send notification of such filing to counsel of record in this matter.

RUDOLF WIDENHOUSE & FIALKO

/s/ M. Gordon Widenhouse, Jr.

N.C. State Bar #10107

312 West Franklin Street

Chapel Hill, NC 27516

Telephone: 919-967-4900

Telefax: 919-967-4953

Email: mgwidenhouse@rwf-law.com