

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 15-7136

UNITED STATES OF AMERICA,

Appellee,

v.

JEFFREY R. MACDONALD

Appellant.

**APPELLANT'S MOTION TO EXTEND TIME
TO FILE PAGE-PROOF OPENING 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 June 7, 2016, to file Appellant's Page-Proof Opening Brief in this matter. 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). Appellant filed a timely Notice of Appeal from the district court's order denying his § 2255 motion on July 16, 2015.

2. On April 4, 2016, this Court entered an order granting a certificate of appealability, after the filing of Appellant's Informal Opening Brief.

3. On April 20, 2016, this Court entered an order granting the parties' motion to proceed with a deferred appendix pursuant to Rule 30(c), and entered the following briefing schedule:

Appellant's Page-Proof Opening Brief:	5/31/2016
Appellee's Page-Proof Response Brief:	7/5/2016
Filing of Appendix:	7/19/2016
Opening Brief, Response Brief & any Reply Brief in final form:	8/1/2016

4. Undersigned counsel has worked diligently on preparing the page-proof opening brief in this matter, but requests a short extension of seven (7) days of the current filing deadline to complete the brief, because of (a) the massive 30+ year size of the record in this unusual case; and (b) undersigned counsel's obligations in other federal matters, including preparation and presentation of an oral argument in this Court on May 12 (*U.S. v. Saunders*, No. 15-4498(L)) and involvement in a large discovery document production in a False Claims Act case

pending in the Eastern District of North Carolina (*U.S. v. Odyssey Marketing, et al.*, No. 5:15-CV-510-BO). In addition, undersigned counsel will be out of state with family from May 19, 2016 through May 23, 2016.

5. For these reasons, Appellant respectfully requests that the deadline for the filing of Appellant's Page-Proof Opening Brief be extended by seven (7) days, to and including June 7, 2016, and that the other scheduling deadlines in this appeal be adjusted accordingly.

6. No previous extensions of this deadline have been sought.

7. Undersigned counsel has contacted Acting United States Attorney John Bruce, one of the prosecutors handling this matter, regarding this Motion, and Mr. Bruce states that the Government does not oppose this Motion.

WHEREFORE, Appellant respectfully requests that this Motion be granted, and that the deadline for the filing of Appellant's page-proof opening brief be extended by seven (7) days, to and including June 7, 2016, and that the other filing deadlines in the April 20, 2016 scheduling order be adjusted accordingly.

This the 18th day of May, 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 18th day of May, 2016.

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