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U.S. COURT OF APPEALS
FOURTH CIRCUIT
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IN THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

UNITED STATES OF AMERICA

No. 14-7543

v.

JEFFREY R. MacDONALD

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)
)
) MOTION TO EXTEND TIME TO FILE
) MATTERS PURSUANT TO PETITIONER'S
) NOTICE OF APPEAL REGARDING INNOCENCE
) PROTECTION ACT CLAIM 1(8 U.S.C. § 3600)

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

NOW COMES the Defendant, Jeffrey R. MacDonald, on his own behalf and moves the Court to extend the time to obtain qualified *pro bono* counsel or file an application *in forma pauperis*, as well as his Informal Opening Brief in relation to the denial of his Innocence Protection Act of 2001 claim (18 U.S.C. § 3600) by the District Court of the Eastern District of North Carolina.¹

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

1. On August 8, 2014, the District Court (EDNC) entered an order denying Defendant's Motion Pursuant to the Innocence Protection Act of 2001, (18U.S.C. § 3600) for New Trial Based on DNA Testing Results and Other Relief. [DE-176].
2. In addition, the Defendant has been under visitation and communication restrictions enacted shortly after the District Court denied his § 2255 claim [DE-354] impeding his ability to clarify the status of his IPA claim and resolve related counsel issues.

¹ Mr. M. Gordon Widenhouse, Esq., remains (lead) counsel of record on all other case matters with the exception of the IPA-related issues.

3. On October 7, 2014, the Defendant, by and through then-current *pro bono* IPA counsel Christine Mumma, filed a Notice of Appeal in this Court [DE-366].
4. On October 7, 2014, Ms. Mumma also filed a Motion to Withdraw as counsel.²
5. On October 8, 2014, the District Court (the Honorable James C. Fox) allowed the Motion.
6. Since that time, Defendant's wife, Kathryn MacDonald, has been diligently working on Defendant's behalf to obtain, if possible, new *pro bono* counsel to represent him solely in regard to the IPA claim appeal. Due to the unforeseen communication restrictions noted earlier, Defendant and his wife have not had adequate opportunity to discuss important matters such as this. Tackling such tasks as a layperson has been rife with difficulties and resultant delays, despite Mrs. MacDonald's best efforts.
7. The inherent scarcity of qualified *pro bono* attorneys with mandatory experience in IPA claims at the federal level is not lost on the Defendant. Nonetheless, the Defendant respectfully requests the opportunity to exhaust all other avenues for assistance before asking this Court for appointed counsel.
8. Regardless of where and how appropriate counsel is ultimately obtained, the Defendant respectfully suggests that additional time is needed to do so.
9. Defendant has not previously requested an extension of time to resolve the issues in this Motion.
10. Defendant respectfully suggests that filing an Informal Opening Brief on the IPA issue would be premature in light of the fact that he is currently without counsel; he clearly and completely lacks the expertise to proceed *pro se*. Thus, an extension until January 17, 2014 (30 additional days) is respectfully requested so that, once secured, new counsel can prepare and file the Informal Opening Brief on Defendant's behalf.

² On September 20, 2011, attorney Christine Mumma joined defense counsel *pro bono* solely to represent Dr. MacDonald on the IPA claim. She acknowledges limited experience in federal appellate law and is not currently certified to appear in front of the United States Court of Appeals for the Fourth Circuit. As Director of the North Carolina Center on Actual Innocence (NCCAI), Ms. Mumma would not have immediate cause to appear before this Court as her advocacy for the wrongly convicted generally involves state cases in North Carolina. Dr. MacDonald's federal case remains a notably rare departure from the NCCAI's customary endeavors.

11. Defendant respectfully requests an extension for good cause shown to obtain appropriately qualified counsel to represent him regarding his IPA appeal (18 U.S.C. § 3600) and the filing of counsel's Notice of Appearance, or alternatively, to file an Application to Appeal *in forma pauperis* until December 17, 2014.
12. Defendant additionally respectfully requests an extension for good cause shown to file his Informal Opening Brief, once counsel is secured in this matter, until January 17, 2014.

WHEREFORE, the undersigned respectfully requests that this Motion be granted and that Defendant receive the requested extensions of time in which to obtain qualified counsel and file the related documents enumerated above.

This is the 18th day of November, 2014.

Jeffrey R. MacDonald
/s/ Jeffrey R. MacDonald *KRM*
Jeffrey R. MacDonald
Defendant

Home of Record:
7308 Shady Glen Drive
Columbia, MD 21046
Current Mailing Address:
FCI Cumberland
PO BOX 1000 Unit C-2
Cumberland, MD 21501

Kathryn A. MacDonald
Kathryn A. MacDonald
Wife of Defendant/POA
7308 Shady Glen Drive
Columbia, MD 21046
E-mail: contactus@yatheatre.com
Telephone: (443) 908-0986

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing MOTION TO EXTEND TIME
via pre-paid first class U.S. mail as follows:

Thomas G. Walker
United States Attorney
310 New Bern Avenue
Raleigh, NC 27601

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

Leslie K. Cooley
Assistant U.S. Attorney
310 New Bern Avenue
Raleigh, NC 27601

Brian M. Murtagh
Special Assistant U.S. Attorney
310 New Bern Avenue
Raleigh, NC 27601

This is the 18th day of November, 2014

Kathryn A. MacDonald

Kathryn A. MacDonald

Wife of Defendant/POA

For Jeffrey R. MacDonald

Defendant

7308 Shady Glen Drive

Columbia MD 21046

E-mail: contactus@yatheatre.com

Telephone: (443)908-0986

Fax: (443) 319-5162

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FOR THE FOURTH CIRCUIT

No. 14-7543

UNITED STATES OF AMERICA

v.

JEFFREY R. MacDONALD

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ORDER

This matter is before the court on Motion to Extend Time [DE-377] by the Defendant, Jeffrey R. MacDonald.

For good cause show, the Motion is GRANTED and the Movant is directed to instruct new *pro bono* counsel (if obtainable) solely representing the Defendant on matters related to the Innocence Protection Act (18 U.S.C. § 3600) , to file a Notice of Appearance before this Court within thirty (30) days time (December 17, 2014).

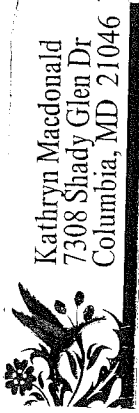
In the alternative, the Movant is directed to file an *In Forma Pauperis* Application within thirty (30) days time (December 17, 2014)

Further, upon securing *pro bono* counsel or court-appointed counsel, the Defendant is granted an additional 30 days (until January 17, 2014) to file his Informal Opening Brief.

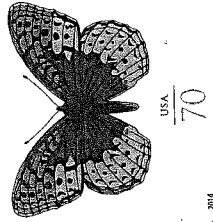
The Clerk of the Court is DIRECTED to kindly serve this ORDER on the appropriate representative(s) for the government.

So ORDERED, this _____ day of November, 2014.

United States Circuit Court Judge
For the Fourth Circuit



Kathryn Macdonald
7308 Shady Glen Dr
Columbia, MD 21046



United States Court of Appeals
For the Fourth Circuit
1100 East Main Street #501
Richmond, Virginia

25219

Attn: Mr. Webb

2321585538 Mr. Webb

