

IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA)	
)	Criminal No. 1:07cr209
v.)	Civil Action No. 1:16cr1214
)	
WILLIAM J. JEFFERSON,)	
)	Hon. T.S. Ellis, III
Defendant.)	

**UNOPPOSED MOTION FOR 60 DAY EXTENSION OF TIME TO FILE
GOVERNMENT’S DECISION ON RETRIAL OF THE VACATED COUNTS**

The United States of America, by and through undersigned counsel, respectfully moves this Court for a 60 day extension of time (from the date of the Court’s October 4, 2017 order) to file the government’s decision whether to seek a new trial related to counts 3, 4, 6, 7, 12, 13, and 14, which were vacated by the Court on October 4, 2017. (Dkt. No. 785). The government seeks to have until 5:00 p.m. on December 4, 2017 (60 days from the Court’s October 4, 2017 Order) to file its decision. The government has consulted with counsel for defendant Jefferson, who does not object to the 60-day extension sought by the government.¹

On October 4, 2017, this Court granted in part and denied in part defendant William J. Jefferson’s motion under 28 U.S.C. § 2255. This Court vacated defendant’s convictions on counts 3, 4, 6, 7, 12, 13, and 14, and denied defendant’s challenges to counts 1, 2, and 16. This Court also ordered that if “the government believes it has the right to retry Jefferson for the

¹ Defendant Jefferson’s non-objection to the government’s Motion for Extension of Time is contingent upon the government’s non-objection to Defendant Jefferson’s motion to remove electronic monitoring from his currently ordered conditions of release. Counsel for defendant Jefferson also specified to government counsel that his non-objection to the government’s Motion is contingent upon the Court actually granting his motion to amend his conditions of bail, by removing the requirement of electronic-monitoring as part of the defendant’s conditions of release. Accordingly, the government herein states that it does not object to such a change in the defendant’s conditions of release by removing the requirement to have electronic-monitoring.

charges in the Counts as to which Jefferson received relief, then the government must advise the Court of its decision to do so by 5:00 p.m. on Monday, October 16, 2007, and the legal basis that gives the government the right to do so.” Dkt. No. 785 at 1. This Court gave defendant Jefferson until 5:00 p.m. on Monday, October 30, 2017, to file any response. *Id.* This Court also ordered the defendant’s immediate release from custody, subject to the conditions previously imposed on him during his direct appeal, scheduled a resentencing for Friday, December 1, 2017, and set a deadline of November 1, 2017, for the government’s sentencing memorandum and November 22, 2017, for defendant’s response. *Id.* at 1-2.

The United States respectfully requests that this Court grant an extension for the United States to inform the Court whether the government will seek to retry defendant Jefferson until 60 days from the date of this Court’s order on October 4, 2017. Thus, the new deadline for the United States to decide whether the government will seek to retry the defendant would be December 4, 2017, and would require rescheduling the accompanying deadlines that this Court set.

Defendant Jefferson was indicted on June 4, 2007, over a decade ago, and defendant’s trial, which lasted approximately two months, began on June 9, 2009. The events that gave rise to defendant’s convictions are even further in the past and largely spanned 2000 to 2005. As the length of the trial, and the docket entry of this Court’s order—no. 785—attest, this case has a lengthy history and a large record. In evaluating whether to seek to retry this case, the United States must review the record and determine what testimony from witnesses would be available today. The United States must also assess appeal and other options.

Because ruling on a § 2255 motion is treated as a civil matter involving the United States as a party, the United States has 60 days from the entry of the judgment or order being appealed

in which to file a notice of appeal. *See* Fed. R. App. P. 4(a)(1)(B); *United States v. Calderon*, ___ F. App'x ___, 2017 WL 4390388, *1 (4th Cir. Oct. 3, 2017); *Garner v. United States*, 808 F.3d 716, 718 (7th Cir. 2015); *Cf. United States v. Hadden*, 475 F.3d 652, 662-63 (4th Cir. 2007).

Setting a deadline of December 4, 2017, will not appreciably delay the proceedings and will allow the United States to evaluate its full range of options in this case without addressing topics piecemeal. Defendant Jefferson does not object to this approach, and proceeding in this way may also help reduce the volume of litigation before this Court.

For the foregoing reasons, the United States respectfully requests that this Court enter an order extending the time by which the government must advise the Court of its decision (whether to seek retrial on the counts to which defendant Jefferson received relief) to 5:00 p.m. on Monday, December 4, 2017.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on October 16, 2017, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System, which will send notice of such filing to the following registered CM/ECF users:

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