

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

UNITED STATES

V. Case No. 1:10-cr-485 – (LMB)

JEFFREY ALEXANDER STERLING

Defendant

CONSENT MOTION FOR AN EXTENSION OF TIME FOR RISEN TO FILE A CONSOLIDATED BRIEF

Comes Now James Risen (Risen) , by counsel, and moves this Court for an seven (7) day extension of time to file his consolidated Memorandum in Opposition to (1) the United States Motion for Clarification and Reconsideration and (2) the United States Supplemental Memorandum in Support of its Motion for Clarification and Reconsideration. The following is in support of this requested extension of time:

1. The United States filed its initial Motion for Clarification and Reconsideration of the Court's order dealing with the scope of testimony that the Government can seek to elicit from witness James Risen.
2. The Risen Memorandum in Opposition to the United States Motion for Clarification and Reconsideration would normally be due on Wednesday, September 7, 2011, and counsel for Risen prepared such a Memorandum in Opposition and were prepared to file that pleading on Wednesday, September 7, 2011.
3. In Friday, September 2, 2011 at 6:55pm the Government filed electronically a Supplement to its Memorandum in Support of its Motion for Clarification and Reconsideration that raised matters that were not included in its initial Memorandum in Support of its Motion for Clarification and Reconsideration.
4. Counsel for Risen were not served or notified by the Government of its Supplemental Memorandum except that an electronic copy of it was served on Risen's local counsel.
5. Since the Government's Supplemental Memorandum was filed electronically at 6:55pm on the Friday before Labor Day, Risen's local counsel did not see (nor know about) the filing until late on Monday, September 5, 2011 (Labor Day) and Risen's pro hac vice counsel did not find out about the Supplement until Tuesday, September 6, 2011.
6. The realistic alternatives available to counsel for Risen were (1) to file the "already prepared" Memorandum in Opposition to the United States Motion for Clarification and Reconsideration in a timely manner on September 7, 2011, and, thereafter, file another Memorandum in Opposition to the Government's Supplement or (2) seek an extension of time to file a consolidated Memorandum in Opposition to both the initial Motion for Clarification and Reconsideration and the Supplement to that Motion.

7. It made sense to Risen's counsel (and, presumably, to all parties) for Risen to prepare and file a consolidated Memorandum in Opposition that responds to both the initial Government Motion for Clarification and Reconsideration and to the Government's Supplement.
8. Efforts were made to obtain the consent of the Government and counsel for Defendant Sterling for the requested seven (7) day extension of time, and the consent from counsel for the Government and for Sterling was obtained in the late afternoon/early evening of September 6, 2011. Promptly thereafter, counsel for Risen prepared and filed electronically this Consent Motion for an Extension of Time.
9. It is believed that a consolidated Memorandum in Opposition will avoid repetition, add clarity and promote judicial efficiency.
10. For the reasons set forth above, Risen, by counsel, requests that it be granted a seven (7) day extension of time, until and including September 14, 2011, to file its Memorandum in Opposition to both the Government's initial Motion for Clarification and for Reconsideration and the Government's Supplement thereto.

James Risen, by Counsel

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Peter K. Stackhouse, Counsel for Risen

Certificate of Service

I certify that a true copy of this Motion for Extension of Time was filed electronically on September 6, 2011 and electronically served on counsel for the United States and counsel for Defendant Sterling.