

JOSEPH T. MCNALLY
Acting United States Attorney
LINDSEY GREER DOTSON
Assistant United States Attorney
Chief, Criminal Division
MATTHEW O'BRIEN (Cal. Bar No. 261568)
Assistant United States Attorney
Environmental Crimes and Consumer Protection Section
1400 United States Courthouse
312 North Spring Street
Los Angeles, California 90012
Telephone: (213) 894-8644
Facsimile: (213) 894-0141
E-mail: Matthew.O'Brien@usdoj.gov

Attorneys for Plaintiff/Respondent
UNITED STATES OF AMERICA

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff/Respondent,

v.

CARL BRADLEY JOHANSSON.

Defendant/Petitioner.

No. 5:18-CR-00114-JGB
5:21-CR-00170-JGB
5:24-CV-02550-JGB
5:24-CV-02552-JGB

GOVERNMENT'S EX PARTE APPLICATION
FOR EXTENSION OF TIME TO RESPOND
TO MOTION TO VACATE, SET ASIDE, OR
CORRECT A FEDERAL SENTENCE UNDER
28 U.S.C. § 2255

[Proposed] Order file concurrently
herewith

Plaintiff/Respondent United States of America, by and through
its counsel of record, the Acting United States Attorney for the
Central District of California and Assistant United States Attorney
Matthew O'Brien, hereby applies ex parte for an order from this Court
extending the time for the government to respond to the motion of
Defendant/Petitioner CARL BRADLEY JOHANSSON to vacate, set aside, or
correct his sentence under 28 U.S.C. § 2255.

1 This ex parte application is based on the attached memorandum of
2 points and authorities, the records and files in this case, and any
3 hearing that the Court may hold in this matter.

4 Dated: February 28, 2025

Respectfully submitted,

5 JOSEPH T. MCNALLY
Acting United States Attorney

6 LINDSEY GREER DOTSON
7 Assistant United States Attorney
8 Chief, Criminal Division

9 /s/
10 MATTHEW O'BRIEN
Assistant United States Attorney

11 Attorneys for Plaintiff/Respondent
12 UNITED STATES OF AMERICA
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MEMORANDUM OF POINTS AND AUTHORITIES

The government moves ex parte for an order from this Court extending the time for the government to respond to the motion ("Motion") of Defendant/Petitioner CARL BRADLEY JOHANSSON ("defendant") to vacate, set aside, or correct his 120-month sentence under 28 U.S.C. § 2255.

The initial deadline set by the Court for the government's opposition brief is March 7, 2025. The government respectfully requests a 90-day extension of that deadline - to June 5, 2025 - for the reasons set forth below.

Defendant's 128-page Motion claims that he received ineffective assistance of counsel from three different attorneys who represented him at three different stages of the proceedings in United States v. National Distribution Services, Inc., et al., 5:18-CR-00114(B)-JGB), and United States v. Western Distribution, LLC, et al., 5:21-CR-00170-JGB (collectively, the "Related Cases"), before the Honorable Virginia A. Phillips, United States District Judge:

- Defendant claims that Mark Werksman provided ineffective assistance of counsel in 2021 when he allegedly coerced defendant into pleading guilty in the Related Cases (Motion at 16-23);
- Defendant claims that, in 2022, Edward Robinson provided ineffective assistance of counsel when he allegedly failed to properly advocate for defendant's unsuccessful motion to withdraw his guilty pleas in the Related Cases (id. at 23-52); and
- Defendant claims that, in 2023, Rachel Robinson provided ineffective assistance of counsel relating to defendant's

1 unsuccessful appeal of Judge Phillips' denial of defendant's
2 motion to withdraw his pleas, which the Ninth Circuit dismissed
3 (id. at 52-59).

4 Defendant's claims of ineffective counsel against three of his
5 lawyers over a three-year period necessarily waive the attorney-
6 client privilege with respect to his communications with those
7 lawyers. See, e.g., Bittaker v. Woodford, 331 F.3d 715, 716 (9th
8 Cir. 2003) ("It has long been the rule in the federal courts that,
9 where a habeas petitioner raises a claim of ineffective assistance of
10 counsel, he waives the attorney-client privilege as to all
11 communications with his allegedly ineffective lawyer.") (citing
12 cases).

13 Accordingly, the government will soon be filing a separate ex
14 parte application requesting an order from this Court (1) authorizing
15 disclosure of certain communications between defendant and Mr.
16 Werksman, Mr. Robinson, and Ms. Robinson, and (2) establishing
17 procedures for the government to obtain such communications. The
18 government anticipates that the process of propounding
19 interrogatories to defendant's prior counsel and obtaining their
20 responses could take well over a month, and potentially much longer,
21 depending on defense counsels' schedules and whether defendant raises
22 objections.

23 As a result, the government believes that a 3-month extension is
24 necessary to accommodate the interrogatories process necessitated by
25 defendant's Motion.

26 The government has not conferred with defendant as to his
27 position on this matter. Defendant is proceeding pro se. He is
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1 currently imprisoned at FCI Lompoc I, where he is serving a 10-year
2 sentence. According to the Bureau of Prisons, defendant's projected
3 release date is August 9, 2029.

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5 Dated: February 28, 2025

Respectfully submitted,

6 JOSEPH T. MCNALLY
Acting United States Attorney

7 LINDSEY GREER DOTSON
8 Assistant United States Attorney
9 Chief, Criminal Division

10 /s/
MATTHEW O'BRIEN
11 Assistant United States Attorney

12 Attorneys for Respondent
13 UNITED STATES OF AMERICA
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