

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

THOMAS A. SHAY

v.

UNITED STATES

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CIVIL NO. 07-11752-RWZ

**GOVERNMENT'S CORRECTED MOTION FOR ENLARGEMENT OF TIME IN WHICH
TO RESPOND TO PETITIONER'S MOTION TO SET ASIDE CONVICTION**

The United States of America, by United States Attorney Michael J. Sullivan and Assistant United States Attorney James Lang, respectfully moves for an additional seven days within which to file its response to the petitioner Thomas A. Shay's "Motion Pro Se for Writ of Habeas Corpus and Motion to Set Aside 1998 Conviction Achieved Through Involuntary Guilty Plea" (hereinafter "the petition"). As reasons therefore, the undersigned states as follows:

1. On September 19, 2007, the petitioner filed his petition, which seeks to vacate his convictions of Counts One and Three of the indictment, which convictions followed upon his entry of guilty pleas to those counts. The petitioner alleges that his counsel at the time provided ineffective assistance and coerced his guilty pleas.

2. On September 20, 2007, the Court issued an order directing the Clerk of the District Court to serve a copy of the petition on the government and directing the government to file a responsive pleading within twenty days of its receipt of said

petition. As a consequence of such order, the government's response is presently required to be filed by September 20, 2007.

3. Since receipt of the Court's order, undersigned counsel has been fully engaged in his handling of other cases, including drafting the government's brief as appellee in the matter of United States v. Earl Dickerson, Appeals Court No. 06-2471, which is an appeal by the defendant following his conviction at trial for firearm and drug offenses and the subsequent imposition of a mandatory life sentence. As a consequence, he has not completed researching and drafting the government's response to the petition. Indeed, just this date he has enlisted the assistance of a second Assistant United States Attorney to assist in completing the government's response.

4. Although it appears clear that the petition is time-barred, as it was filed almost nine years after the October 29, 1998 plea and sentencing at issue, because the petitioner has alleged ineffective assistance of counsel, it may be necessary to seek to obtain an affidavit from counsel.

WHEREFORE, for good cause shown, the government respectfully requests that the within motion be allowed and that the Court extend by seven days, to October 17, 2007, the time within which

the government must respond to the petition.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

By:

\s\ James Lang
JAMES LANG
Assistant U.S. Attorney

CERTIFICATE OF SERVICE

Suffolk, ss.

Boston, Massachusetts
October 10, 2007

I, James Lang, Assistant U.S. Attorney, do hereby certify that I have served by mail a copy of the Government's Motion to Enlarge Time Within Which to Respond to Petitioner's Motion to Vacate Conviction upon Thomas, A. Shay, Prisoner No. 19193-038, Donald Wyatt Detention Center, Pod D., 950 High Street, Central Falls, RI 02683.

\s\ James Lang
JAMES LANG
Assistant U.S. Attorney

