

**UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT**

Appeal No. 09-1559

**ALFRED W. TRENKLER,
Petitioner-Appellant**

v.

**UNITED STATES,
Respondent-Appellee**

**GOVERNMENT'S MOTION FOR ORDER EXTENDING THE TIME
– TO JANUARY 26, 2010 –
WITHIN WHICH IT MUST FILE ITS RESPONSIVE BRIEF**

The government respectfully moves this Court to continue for an additional 15 days – **to January 26, 2010** – the date on which its brief is due. In support of this motion, the government states the following:

1. This is a prisoner's pro-se appeal from the denial of his request for collateral relief pursuant to 28 U.S.C. §2255 from his 1993 conviction and life sentence for a bombing which killed one police officer seriously injured another.

2. The government's brief is currently due on January 11, 2009. The government previously requested and was granted two extensions of its deadline in this appeal. In the most recent extension, this Court stated that it was disinclined to grant further extensions of the deadline.

3. The prisoner argues on appeal that the district court erred in denying his claim that his conviction should be overturned based on alleged newly discovered evidence establishing that he is actually innocent of the crime for which he was convicted and sentenced more than fifteen years ago. The prisoner's appeal presents a number of legal issues regarding the prisoner's ability to pursue his claims at this late date as well as factual questions concerning the nature and relevance of the purported newly discovered evidence. In addition, preparation of the response requires review of the extensive record in the case, which includes the defendant's 17-day trial and multiple post-trial challenges by the defendant.

4. As a result of work on four other appeals, *United States v. Cerna-Garcia*, No. 08-2518 (motion for summary disposition filed December 9, 2009), *United States v. Mare*, No.09-1146 (government's brief filed December 15, 2009), *Earle v. United States*, No. 09-2372 (government's motion for summary disposition filed December 23, 2009), and *United States v. Ferguson*, No. 08-2151 (government's motion for summary disposition filed December 23, 2009), the undersigned had limited time to work on this appeal for much of December. Thereafter, the undersigned took several days of planned vacation time in the week of December 28, 2009.

5. Since returning, the undersigned has worked diligently on the government's response and has made substantial progress on a draft brief. The

undersigned has, however, been involved in reviewing a government brief in another appeal, *United States v. Persichilli*, No. 09-1799, which is due on January 8, 2009, and as a result has not been able to complete the draft. The undersigned also wishes to ensure adequate time for internal review and, if necessary, revision of the government's filing, given the significance of the case and the complexity of its history, and for preparation of the government's supplemental appendix. Additional time is therefore requested to allow time for the government's response to be completed, reviewed, and filed.

For these reasons, the government respectfully requests that the Court allow this motion.

Respectfully submitted,

CARMEN M. ORTIZ
United States Attorney

By: /s/Randall E. Kromm
RANDALL E. KROMM
Assistant U.S. Attorney

Certificate of Service

I, Randall E. Kromm, AUSA, certify that I caused this motion to be served by first-class mail on the pro-se defendant, Alfred W. Trenkler, Reg. No. 19377-038, MDC Brooklyn, PO Box 329002, Brooklyn, NY 11232, on January 7, 2010.

/s/Randall E. Kromm