

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS

UNITED STATES OF AMERICA)	
)	
)	4:15CR00001 BSM
)	
MICHAEL A. MAGGIO)	

**UNITED STATES' MOTION FOR ORDER DECLARING
ATTORNEY-CLIENT PRIVILEGE WAIVED AND FOR RELEASE OF FILE**

Defendant MICHAEL A. MAGGIO has filed a motion seeking relief pursuant to Title 28, United States Code, Section 2255, alleging ineffective assistance of his counsel in relation to his guilty plea. During that portion of this case, MAGGIO was represented by Lauren Hamilton (now Hoover) and Marjorie Rogers of Hilburn, Calhoun, Harper, Pruniski & Calhoun ("the Hilburn firm"). Although not mentioned by name in the motion, Rogers served as co-counsel with Hamilton and was present for client meetings and all Court proceedings. Because MAGGIO has called into public question the competence of his counsel, the attorney-client privilege has been waived as to the allegations in MAGGIO's Section 2255 motion. See *United States v. Tasby*, 504 F.2d 332, 336 (8th Cir. 1974). Further, because Rogers and Hamilton jointly represented MAGGIO on the matters raised in the petition, the attorney-client privilege has been waived as to both attorneys.

Lauren Hamilton and Marjorie Rogers are no longer practicing at the Hilburn firm, and are now partners in a new firm. Accordingly, they do not have access to their file in the MAGGIO matter. The United States therefore requests that the Court direct the Hilburn firm to release the MAGGIO file to Hamilton and Rogers for their use in this matter, with the file to be returned to the Hilburn firm at the completion of the matter.

WHEREFORE, the United States respectfully requests that this Court issue an order finding waiver to allow the Assistant United States Attorney to confer with MAGGIO's counsel, Lauren Hamilton (now Hoover) and Marjorie Rogers, and any associates who worked on this case, in order to prepare its response to defendant's motion. The United States further requests that the Court direct the Hilburn firm to release the MAGGIO file to Hamilton and Rogers for their use in this matter, and that the file to be returned to the Hilburn firm at the completion of the matter

Respectfully submitted,

CODY HILAND
United States Attorney

/s/ JULIE PETERS

By JULIE PETERS
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CERTIFICATE OF SERVICE

I hereby certify that on October 29, 2018, I electronically filed the foregoing with the Clerk of the Court using CM/ECF system, and a copy mailed to defendant:

Michael A. Maggio
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Post Box 2068
Inez, KY 41224

/s/ JULIE PETERS

JULIE PETERS