

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS

NOV 13 2018

JAMES W. MCCORMACK, CLERK
By: _____
DEP CLERK

NOV 13 2018 5:32

IN THE DISTRICT COURT OF THE UNITED STATES
EASTERN DISTRICT OF ARKANSAS

UNITED STATES OF AMERICA

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4:15 CR 01 BSM

MICHAEL A. MAGGIO

DEFENDANT RESPONSE TO UNITED STATES' MOTION FOR ORDER DECLARING ATTORNEY-CLIENT
WAIVED AND RELEASE OF FILE

COMES NOW, DEFENDANT, Michael A. Maggio and for his response to the United States' motion filed on 10/29/18 and received by Defendant on November 2, 2018 and doth state:


- 1) Defendant has filed a motion seeking relief pursuant to Title 28 Section 2255 alleging ineffective assistance of counsel.
- 2) Defendant does not object to the court order declaring attorney-client privilege waived as per United States v Tasby, 504 F2d 332, 336 (8th Cir. 1974), as to Lauren Hamilton (Hoover), but does object to extending said order to Marjorie Rogers and/or the Hilburn Firm.
- 3) Defendant would assert that said order should be limited in scope for the following:
 - a) Defendant would allege that said waiver should only be as to any communication between Defendant and Hoover.
 - b) Defendant would allege that said waiver should be limited to only the representation of the instant criminal matter and not extended to other matters that Hoover may have represented the Defendant.
 - c) Defendant would allege that Hamilton (Hoover) was at all times the lead counsel and as such was responsible for all decisions during representation.
 - d) Defendant would allege that Hamilton (Hoover) was at all times recognized as the lead and sole point of contact with the Defendant's representation.
 - e) Defendant would allege it is not necessary to release any files to Hamilton (Hoover), as she has complete knowledge of her representation of Defendant and said files are the property of Hilburn Lawfirm.
 - f) Defendant was never allowed possession of, or opportunity to review, any file Hamilton (Hoover) may or may not have had in her possession. As previously stated and admitted, at a prior hearing, she withheld information from the Defendant. Thereby, affecting and/or limiting the Defendant's ability to be fully informed.
- 4) Defendant would request any order to transmit the file or any portion thereof, to provide the Defendant an ability to inspect the file PRIOR to said order of transmittal. Or in the alternative, said file be reviewed en camera and under seal by the presiding Judge or Magistrate, PRIOR to be released to the prosecutor.
- 5) Inasmuch, as the Hilburn Law firm may or may not have any potential liability. It is incumbent upon the Court to allow the Hilburn Law firm an opportunity to respond.

Wherefore, the Defendant prays for an Order Limiting the Scope and Breadth of and Order to Waive the Attorney-Client privilege for the above stated reasons.

RESPECTFULLY SUBMITTED,
Michael A. Maggio
MICHAEL A. MAGGIO

CERTIFICATE OF SERVICE

I, Michael A. Maggio, do hereby certify that I placed a copy of the above in the USPO at Big Sandy Camp, Inez, KY, postage prepaid today November 7, 2018 addressed to:


Michael A. Maggio

Clerk US District Court
600 W. Capitol Ave
Little Rock AR 72201-3325