

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

Civil Action No. 14-cv-00245-MSK-MJW

REVEREND MATT HALE,

Plaintiff,

v.

FEDERAL BUREAU OF PRISONS,

Defendant.

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**UNOPPOSED MOTION FOR A 90-DAY EXTENSION  
OF TWO REMAINING DEADLINES IN THE SCHEDULING ORDER**

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The Federal Bureau of Prisons (“BOP”) respectfully requests that the Court extend the deadlines for completing discovery and for filing dispositive motions for a period of 90 additional days. Extraordinary, unanticipated circumstances provide good cause for the Court to amend the Scheduling Order to extend these two deadlines. *See* Doc. 73 at § 13 (“This Scheduling Order may be altered or amended only upon motion showing good cause.”). Undersigned counsel has spoken at length with Mr. Hale concerning this motion, which is filed for the purpose of allowing him to complete numerous depositions authorized in the Scheduling Order. *See* Doc. 73, § 8.a. Mr. Hale has authorized counsel to represent that he does not oppose the motion.<sup>1</sup>

The extension is requested because there has been a recent unanticipated change in Mr. Hale’s housing situation. In late May 2016, Mr. Hale was transferred from the U.S. Penitentiary

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<sup>1</sup> Undersigned counsel is honoring Mr. Hale’s request to state in this motion that he does not believe he is receiving nutritionally adequate food at this time. Counsel has looked into this matter and has been informed by BOP personnel that Mr. Hale is provided three daily meal trays.

– Administrative Maximum (“ADX”) to the Federal Correctional Institution in Terre Haute, Indiana (“FCI Terre Haute”). Then, in late August, FCI Terre Haute initiated an investigation of Mr. Hale and an incident that occurred in the prison. As a result, Mr. Hale was moved to the Special Housing Unit (“SHU”) at FCI Terre Haute.<sup>2</sup> Undersigned counsel has been informed by BOP personnel that it is unknown when Mr. Hale will be moved from the SHU, and that no decision been made as to where Mr. Hale will be housed after that. Discussions concerning those decisions, which involve a security assessment, are ongoing. That evaluation is being conducted independently of this litigation. Undersigned counsel will not be informed of the BOP’s decision until it is made.

The uncertainty of Mr. Hale’s housing situation—when he will be moved and where—affects the parties’ ability to schedule depositions and to complete them by the current discovery deadline of October 17, 2016. The many witnesses Mr. Hale intends to depose are located throughout the United States. Mr. Hale will remain in the BOP facility where he will ultimately be housed and participate in the depositions by video teleconference, but undersigned counsel will travel to the cities where the witnesses are located to defend their depositions. Scheduling these video teleconferences and making travel arrangements has been put on hold until Mr. Hale’s post-SHU location has been determined. Were depositions dates to be selected now, and travel arrangements made, Mr. Hale could be in transition to another housing situation on the day of a scheduled deposition. Moreover, given that Mr. Hale’s current confinement is not permanent, it makes sense for him to be settled before depositions are scheduled and potentially unnecessary travel expenses incurred.

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<sup>2</sup> Mr. Hale has filed a motion in this Court seeking to be removed from the SHU. *See* Doc. 95. The BOP will respond to that motion in a separate filing, in accordance with the timeframe established under the Federal Rules of Civil Procedure.

Mr. Hale has had several transitions during the pendency of discovery in this case, including the very significant change of moving from the ADX in Colorado to a medium-security prison in Indiana. Those transitions have unavoidably caused delays in the progress of discovery. The parties were preparing to schedule depositions when Mr. Hale was moved to the SHU in late August. For the reasons discussed above, that change prevented depositions from being scheduled.

Therefore, upon a good-faith evaluation of information available at this time, the BOP requests a 90-day extension of the discovery cut-off, to and including **January 17, 2017**, and a 90-day extension of the dispositive motion deadline, to and including **February 16, 2017**. While the BOP has not yet made a decision as to when Mr. Hale will be moved from the SHU, or where he will be housed after that, undersigned counsel has been informed that the 90-day extension should allow sufficient time for Mr. Hale's housing assignment to be made and discovery to be completed.

There is no need to extend any other deadline. Expert witnesses have been disclosed and all written discovery has been served. The BOP previously requested one 60-day extension of these deadlines, which the Court granted. *See* Doc. 88; *see also* D.C.COLO.LCivR 6.1(b). A copy of this motion will be served on Mr. Hale and upon an agency representative for the BOP. *See* D.C.COLO.LCivR 6.1(c). Granting this motion will not prejudice Mr. Hale, but rather will ensure that he has an opportunity to complete all discovery he deems necessary to support his claims.

WHEREFORE, the Federal Bureau of Prisons requests that the Court issue an order extending the current deadlines for completing discovery and filing dispositive motions by 90 days. A proposed order is attached.

Respectfully submitted September 27, 2016.

ROBERT C. TROYER  
Acting United States Attorney

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Counsel for the Federal Bureau of Prisons

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
CERTIFICATE OF SERVICE (CM/ECF)**

I hereby certify that on September 27, 2016, I served the foregoing document to the following non-CM/ECF participant in the manner indicated by the non-participant's name:

Matthew Hale (U.S. Mail)  
Reg. No. 15177-424  
FCI – Terre Haute  
P.O. Box 33  
Terre Haute, IN 47808

Counsel for the Federal Bureau of Prisons (e-mail)

In addition, I have asked BOP personnel to hand deliver this document to Mr. Hale.

s/ Susan Prose  
Susan Prose  
United States Attorney's Office

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**ORDER GRANTING UNOPPOSED MOTION FOR A 90-DAY EXTENSION  
OF TWO REMAINING DEADLINES IN THE SCHEDULING ORDER**

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The Court, having reviewed the Unopposed Motion for a 90-Day Extension of Two Remaining Deadlines in the Scheduling Order, and finding good cause, GRANTS the motion.

The discovery cut-off is extended to **January 17, 2017**. The deadline for filing dispositive motions is extended to **February 16, 2017**.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2016.

BY THE COURT:

  

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