

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
LOUISVILLE DIVISION
INDICTMENT NO. 3:06CR-90-H**

UNITED STATES OF AMERICA

PLAINTIFF

vs.

**DEFENDANT'S MOTION TO EXTEND TIME
IN WHICH TO FILE REPLY MEMORANDUM**

JIAN TIAN LIN

DEFENDANT

*** **

Comes the Defendant, Jian Tian Lin, and respectfully requests this Court to enter an Order granting him an extension of time in which to file his Reply to the Government's Response to the Motion to Vacate the Final Judgment herein. As grounds therefore, undersigned counsel states as follows:

1. Counsel has not had an opportunity to prepare the Defendant's Reply memorandum, which is due on Monday, October 29, 2012.
2. Undersigned counsel is leaving the country early in the morning on Saturday, October 27th, and will not return until Saturday, November 3rd.
3. The Government was allowed almost 3 months to file a response to the Motion to Vacate, which was filed on July 3rd, thus making the original Response date July 20, 2012. The Government's Response was actually filed on October 12, 2012.
4. This case presents an important issue concerning the application of the holding of the U.S. Supreme Court in *Padilla v. Kentucky* to the Defendant herein, who was not advised by his counsel or the Court that removal (deportation) was a mandatory consequence of his offense of conviction. Furthermore, Defendant is making a claim of actual innocence of his offense of

conviction. Defendant is presently facing removal proceedings that would effectively and permanently separate him from his wife, a legal resident, and his children, who are U.S. citizens. Defendant submits that this Court should be fully apprised of both the facts and the law regarding his motion, due to the severity of the collateral consequences of his plea, which were unknown to him at the time of his plea and sentencing.

WHEREFORE, Defendant respectfully requests an extension of time to and including November 23, 2012 in which to file his response.

Respectfully submitted,

/s/ C. Thomas Hectus

C. Thomas Hectus

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Counsel for Defendant

CERTIFICATE OF SERVICE

I hereby certify that the original of the foregoing was electronically filed, on this the 26th day of October, 2012, with the Clerk, United States District Court, Western District of Kentucky, 106 Gene Snyder U.S. Courthouse, 601 West Broadway, Louisville, Kentucky 40202, who will electronically provide notice to the following:

Daniel Kinnicut, Esq.
Assistant United States Attorney
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510 West Broadway
Louisville, Kentucky 40202

/s/ C. Thomas Hectus
C. THOMAS HECTUS

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
LOUISVILLE DIVISION
INDICTMENT NO. 3:06CR-90-H**

UNITED STATES OF AMERICA

PLAINTIFF

vs.

**ORDER GRANTING DEFENDANT'S MOTION FOR
AN EXTENSION OF TIME TO FILE REPLY TO GOVERNMENT'S
RESPONSE TO MOTION TO VACATE FINAL JUDGMENT**

JIAN TIAN LIN

DEFENDANT

*** **

Upon motion of the Defendant, by counsel, and the Court being otherwise sufficiently advised,

IT IS HEREBY ORDERED THAT the Defendant may file a Reply to the Government's Response to the Defendant's Motion to Vacate the Judgment herein on or before November 23, 2012.

JUDGE, U.S. DISTRICT COURT

DATE ENTERED: _____

Hon. Daniel Kinnicutt []
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Counsel for United States of America

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