

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 75-CR-26-3-F
No. 5:06-CV-23-F

UNITED STATES OF AMERICA,

v.

JEFFREY R. MacDONALD,
Movant.

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ORDER

Britt Claim Hearing Dates

This matter is before the court on motion [DE-251] by the defendant, Jeffrey MacDonald, to continue the evidentiary hearing on “the Britt claim” for at least 90 days from April 30, 2012. At the court’s direction, counsel for the Government and for MacDonald have conferred and have agreed on the dates **August 20 - 31, 2012**, within which to conduct that hearing. Accordingly, the Clerk of Court is DIRECTED to schedule and notice the evidentiary hearing on MacDonald’s “Britt claim” during the two-week period beginning at **10:00 a.m.** on **August 20, 2012**, in Wilmington, North Carolina. The Government is DIRECTED to ensure MacDonald’s transport, lodging and appearance for the hearing.

**Hearing on Requests for New DNA Testing --
Innocence Protection Act**

Mr. Widenhouse, lead counsel for MacDonald, and counsel for the Government agree that the court would benefit from oral argument concerning MacDonald’s request for new DNA testing pursuant to the Innocence Protection Act (“IPA”). They have suggested early May 2012 for such hearing. They concur that no “new evidence” is necessary, but the Government contends there are disputed issues of fact for the court to decide. However, Ms. Mumma – Director of the North Carolina Center on Actual Innocence, who filed the motion for a new trial [DE-176] pursuant to the IPA, and who seeks on MacDonald’s behalf to conduct additional DNA

testing to support his “actual innocence” of the murders for which he was convicted – has filed her affidavit expressing opposition to oral argument on her IPA claim. She contends that “[t]ime is of the essence,” and because “there is sufficient evidence in the record to establish each of the statutory prerequisites for ordering testing under the IPA,” “the court should not delay its ruling for another month to hear oral argument that is unnecessary.” Affidavit of Christine C. Mumma [DE-258] ¶ 4. Counsel for the Government sought leave to file a Sur-Reply to Ms. Mumma’s Reply [DE-238], should the court decline its request for oral argument.

For good cause shown, the court already entered an order allowing the Government to file a sur-reply on or before May 10, 2012. *See* Order [DE-262]. Although the Government’s current requests for oral argument on the IPA claim, *see* [DE-252, DE-259], are DENIED without prejudice, *all counsel are noticed that the court will not hesitate to schedule a hearing after receiving the Government’s sur-reply, should the court deem oral argument to be necessary or desirable.*

SO ORDERED.

This, the 18th day of April, 2012.



JAMES C. FOX
Senior United States District Judge