

IN THE UNITED STATES DISTRICT COURT
 FOR THE EASTERN DISTRICT OF NORTH CAROLINA
 WESTERN DIVISION

Case Nos. 3:75-CR-26-3
 5:06-CV-24-F

UNITED STATES OF AMERICA)	
)	
v.)	<u>AFFIDAVIT OF</u>
)	<u>WADE M. SMITH</u>
JEFFREY R. MACDONALD)	
Defendant.)	

I, Wade M. Smith, first duly sworn, depose and state as follows:

- 1) I am an attorney in good standing with the North Carolina State Bar.
- 2) I testified in the evidentiary hearing in the matter of *U.S. v. Jeffrey R. MacDonald* on Monday, September 17, 2012. I was not in attendance after that day, and not privy to the testimony of subsequent witnesses. I understand some of those witnesses attributed actions or words to me with which I disagree. I make this affidavit in an effort to clarify the record.
- 3) I had an excellent working relationship with Mr. Jimmy B. Britt during the trial of the MacDonald case in 1979. I had known him and worked with him on other occasions before that time. I admired him and respected him. After the MacDonald trial was completed I saw him from time to time at the Courthouse or around town. I continued to respect and admire him and I could tell that my respect for him was reciprocated. I do not believe that he would have used me to perpetrate a fraud upon the Court by advancing to me a story which he fabricated. He would not have done that to me.
- 4) My impression of Mr. Britt was that he was a dedicated law enforcement professional. I believed him to be a serious and very reliable man.
- 5) I believe Mr. Britt came to me in January, 2005, because he felt deeply burdened and he felt I was someone to whom he could express himself and he trusted me to take whatever actions were appropriate.
- 6) After Mr. Britt told me his story I did all that I could do to responsibly test his truthfulness before I took any action with respect to the things he said.

- 7) I never believed that Mr. Britt told his story with the hope of gaining anything for himself. He never mentioned to me any personal gain he wished to achieve. His expression to me was always that he wanted to get this off his chest.
- 8) When Mr. Britt came to me in 2005 and asked to tell me of a matter which burdened him I agreed to listen. When I listened I learned that what he had to say impacted Mr. Jim Blackburn. I knew that I could not move forward with Mr. Britt's assertions without Mr. Blackburn's approval, because after the MacDonald case was concluded, I had served as counsel to Mr. Blackburn in a separate case. Therefore, I was presented with a conflict. I spoke candidly with Mr. Blackburn about the matter. At first he agreed to waive any conflict which would result from my assisting Dr. MacDonald in the Britt matter. But when he read the Petition which contained Mr. Britt's statements he became upset. I knew I could not proceed, because there was certainly a conflict and I had an ethical duty to withdraw, which I did. I called Dr. MacDonald and withdrew from his case.
- 9) I have been told that there was testimony in the MacDonald hearings that I appeared before a Grand Jury at some time in 1975. I was never before the Grand Jury in the MacDonald case. I was retained by the defense to enter the case on Dr. MacDonald's behalf in the spring of 1979. I was not counsel to Dr. MacDonald prior to that time. By the time I entered the case all Grand Jury proceedings had long been completed.

This the 5 day of August, 2013.

Wade M. Smith
Wade M. Smith

NORTH CAROLINA
WAKE COUNTY

I certify that Wade M. Smith personally appeared before me this day, and I have personal knowledge of the identity of the principal and acknowledging to me that he voluntarily signed the forgoing document for the purpose stated therein and in the capacity indicated.

Aug 5 2013
Date

Leigh A. Satterwhite
Notary Signature

My Commission expires: Jan 17, 2016

(OFFICIAL SEAL)

