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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.)	<u>ORDER</u>
)	
JEFFREY R. MacDONALD,)	
Movant)	

This matter came before the Court upon the invocation of the attorney-client privilege by attorney Jerry W. Leonard ("<u>Leonard</u>"), in opposition to being compelled to testify in this matter. Having considered—*inter alia*—the arguments of, and materials submitted by, counsel in this matter, the Court is of the following opinion:

Whereas, in his capacity as a lawyer, Leonard was appointed to represent Helena Stoeckley ("Stoeckley"), who was a witness in Movant's criminal trial;

Whereas, Stoeckley died in January, 1983;

Whereas, Leonard was subpoenaed by both Movant and the United States of America to testify in the matter now before the Court;

Whereas, through counsel, Leonard has appeared and invoked the attorney-client privilege in opposition to being compelled to disclose any confidential communications between Ms. Stoeckley and himself;

Whereas, the Court has ruled that the attorney-client privilege survives the death of a client; and

Whereas, the Court deems it necessary to know the substance of the testimony Leonard would offer in this matter, if so Ordered, in order to determine whether circumstances require Leonard so to testify;

NOW, THEREFORE, it is **ORDERED** that Leonard submit to the Court, under seal, a signed Affidavit setting forth that which he may testify to regarding his communications with Stoeckley, if so Ordered to testify in this matter.

This the 20th day of September, 2012.

The flonorable James C. Fox Senior United States District Judge