

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.)	

By order of November 8, 2011 [DE-201], the court directed MacDonald’s current counsel, F. Hill Allen, to assist in obtaining MacDonald’s affidavit stating “under oath . . . the names of his attorney(s) of record as of the date this order is filed.” *Id.* p. 6. The order also directed Mr. Allen to “assist MacDonald in obtaining and filing with the court the affidavit of the Administrator of the MacDonald Defense Fund stating the availability of the Fund’s assets to reimburse fees paid to an attorney appointed pursuant to the CJA. *See* 18 U.S.C. §§ 3006A (c), (f).” *Id.*

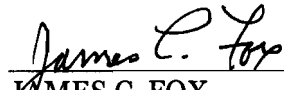
On November 10, 2011, Mr. Allen promptly filed a Notice of Filing [DE-203] to which two affidavits were attached. The first, MacDonald’s, declares that F. Hill Allen, Christine C. Mumma, and Wade M. Smith are his attorneys of record as of November 8, 2011, “to the best of my knowledge and understanding.” MacDonald Affidavit [DE-203], Exhibit 1. The second is the affidavit of the MacDonald Defense Fund Administrator, Raymond M. Shea. Mr. Shea declares in pertinent part, “To the best of my knowledge and belief, the funds . . . are available to reimburse the [CJA] program.” *Id.* at Exhibit 2.

The court’s choice of wording apparently lacked the necessary specificity. The court sought authoritative and definitive information upon which to base its consideration of MacDonald’s application to proceed *in form pauperis* in support of his request that counsel be appointed for him. Accordingly, Mr. Allen is DIRECTED to assist in obtaining affidavits from

whomever can state with certainty (i) the names of attorneys who are engaged currently in the above-captioned collateral proceedings on behalf of MacDonald,¹ and (ii) whether the assets that are or will be collected in the MacDonald Defense Fund, or otherwise are donated to assist in this proceeding, will, *in fact*, be available to reimburse the Criminal Justice Act program for fees paid pursuant to that Act to an attorney appointed to represent MacDonald. The motions to appoint counsel [DE-191] and to withdraw [DE-192] continue to be HELD IN ABEYANCE pending receipt, on or before **December 5, 2011**, of affidavits that respond authoritatively and affirmatively to the court's inquiries, as clarified herein.

SO ORDERED.

This, the 14th day of November, 2011.



JAMES C. FOX
Senior United States District Judge

¹ The court perceives that MacDonald himself cannot say with certainty who represents him. The court also is cognizant of the fact that all attorneys who have made an appearance herein have not formally moved to withdraw. Rather than require that level of formality, the court seeks a definitive assertion by a person with actual knowledge, of the identity of lawyers now working on MacDonald's behalf in prosecuting this collateral proceeding.