

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

No. 3:75-CR-00026-F

UNITED STATES OF AMERICA,             )  
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JEFFREY R. MacDONALD,             )

ORDER

This matter is before the court on the Motion to Alter or Amend Judgment [DE-357] filed by Jeffrey MacDonald and the Motion for Supplemental Briefing [DE-373] filed by the Government.

As the parties have noted in their filings, while MacDonald's Motion to Alter or Amend Judgment was being briefed, the Government received a letter from Norman Wong, Special Counsel to the United States Department of Justice ("DOJ"). *See* September 17, 2014 Letter [DE-363-2]. Therein, Mr. Wong advised that the DOJ and the Federal Bureau of Investigation ("FBI") had reviewed "laboratory reports and testimony by FBI Laboratory examiners in cases involving microscopic hair comparison analysis" and "have determined that a report or testimony regarding microscopic hair comparison analysis containing erroneous statements was used in this case." *Id.* at 1. Enclosed with the letter was a report entitled "Microscopic Hair Comparison Analysis: Result of Review" [DE-363-3].

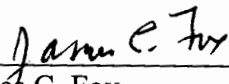
The parties agree that because of this additional information, supplemental briefing is needed. The parties disagree, however, as to the timing and procedure for the supplemental briefing. MacDonald requests sixty days for supplemental briefing, and asserts that both he and

the Government should submit the supplemental briefing simultaneously. The Government, however, contends that because MacDonald bears the burden of proof on his motion, he should submit his supplemental briefing, to which the Government may file a reply.

The court agrees that because MacDonald, as the movant, bears the burden of proof, he should file his supplemental briefing, to which the Government may reply. Accordingly, the Government's Motion for Supplemental Briefing [DE-373] is ALLOWED. MacDonald shall file his supplemental briefing within forty-five (45) days of the filing date of this order. The Government shall file its response within thirty (30) days of MacDonald's filing of his supplemental briefing. The court reserves ruling on the Motion to Alter or Amend Judgment [DE-357] pending the supplemental briefing.

SO ORDERED.

This the 13<sup>th</sup> day of November, 2014.

  
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James C. Fox  
Senior United States District Judge