

Fatal Revision: The Plot Thickens In Famed Murder Case; Dr. MacDonald Pins Hope On U.S. Marshal's Account Of What a Suspect Said**Author:** Cohen, Laurie P**Publication info:** Wall Street Journal , Eastern edition [New York, N.Y] 14 Dec 2005: A.1.[ProQuest document link](#)

Abstract: In yesterday's motion, Dr. [Jeffrey MacDonald]'s current lawyers, led by Timothy Junkin of Gaithersburg, Md., argued that the prosecutor's alleged threat "caused her to change her testimony, as the next day, when called to the witness stand by the defense, [Helena Stoeckley] claimed to have amnesia as to her whereabouts" on the night of the MacDonald murders. Mr. [Jimmy B. Britt], who retired in 1990, says in his affidavit that he decided to tell his story in January 2005 to Wade M. Smith, Dr. MacDonald's 1979 trial lawyer, because he needed to unload the "moral burden" he says he carried for years. "Ultimately, I decided that I had a duty to come forward," he says. He told his long-kept secret to two friends from the Marshal's Service in 2004, his affidavit says. One of them confirmed his account in an affidavit. According to the legal motion filed yesterday, he passed a polygraph exam regarding the 1979 events this year. Mr. [James Blackburn], the prosecutor to whom Mr. Britt says Ms. Stoeckley told her story, has his own troubled past. Soon after the MacDonald case ended, Mr. Blackburn went into private law practice. In 1993, he pleaded guilty in federal court in Raleigh to multiple felony counts, including forgery, embezzlement and obstruction of justice. He admitted to stealing \$234,000 from his Raleigh law firm, and to forging the signatures of judges on bogus legal rulings in cases he claimed he had taken to court but hadn't. He was disbarred and spent 3 1/2 months in prison in 1994. Mr. Blackburn was represented in his criminal case by Mr. Smith, the same Raleigh lawyer who represented Dr. MacDonald at trial.

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Full text: It's been more than a quarter-century since Jeffrey MacDonald was convicted of murdering his wife and two daughters in their Fort Bragg, N.C., home. The former Green Beret, 62 years old, is serving a life sentence in a Cumberland, Md., prison. Dr. MacDonald's story has been examined in dozens of judicial opinions, dramatized on television and told in a best-selling book, "Fatal Vision." Now a bizarre epilogue is unfolding. In legal papers filed yesterday, Dr. MacDonald asked a federal appeals court in Richmond, Va., to set aside his sentence based on what his lawyers characterize as newly discovered evidence that establishes his innocence: a sworn affidavit from a retired federal marshal. Jimmy B. Britt, the marshal, says in his affidavit that he was present when a defense witness admitted to a prosecutor in 1979 that she was at Dr. MacDonald's house on the night his family was murdered. If true, that would buttress Dr. MacDonald's tale of what happened that night in February 1970. The former Army surgeon long has argued that his wife and daughters were clubbed and stabbed to death by drug-crazed hippies. The killers, he said, were led by a woman who wore dark clothing, a floppy hat and a long blond wig, and chanted: "Acid is groovy, kill the pigs." Helena Stoeckley, who met his description and owned a blond wig, was an early suspect in the case. According to Mr. Britt's affidavit, she was also the woman who told the prosecutor in 1979, at the time of Dr. MacDonald's murder trial, that she had been in the doctor's house that night. Ms. Stoeckley died in 1983 at age 30. One of the two lead prosecutors, James Blackburn, vehemently denied Mr. Britt's claim in an interview. "It's absolutely not true," he says. "It blows my mind that he thinks she told us that." Yesterday's filing is the latest in a long string of attempts by Dr. MacDonald to have his conviction overturned. Earlier efforts hinged on claims that evidence was concealed and government officials gave false testimony. He is currently pursuing an effort to exonerate himself through DNA testing. This year he lost his first parole bid. The U.S. Parole Commission ruled that he couldn't be

reconsidered for release for another 15 years. Dr. MacDonald testified at trial he had been awakened on the night of the murders by screams. He said assailants stabbed him, although his injuries were not life-threatening. At trial, physical evidence of intruders was scant. Neither a jury nor one of his early supporters, "Fatal Vision" author Joe McGinniss, believed his story. All his appeals have failed. Mr. Britt, 67, worked as a Deputy U.S. Marshal in North Carolina in 1968. He says in his affidavit he was assigned in 1979 to drive Ms. Stoeckley from Greenville, S.C., to Raleigh, N.C., to testify at Dr. MacDonald's murder trial. A colleague from the U.S. Marshal's office, who since has died, accompanied him, he says. Mr. Britt says Ms. Stoeckley told them during the trip that she was in the MacDonald home on the night of the murders. Mr. Britt's affidavit does not indicate that she said anything about the murders themselves. In his affidavit, Mr. Britt says he was present the following day when Ms. Stoeckley told Mr. Blackburn that she and others had gone to the MacDonald house on the night of the murder to acquire drugs. She said she remembered certain objects inside the house, including a hobbyhorse, according to Mr. Britt's statement. Evidence later presented in court established that there was a hobbyhorse in the MacDonald home. In a motion filed yesterday, Dr. MacDonald's attorneys argue that at the time of her admission to the prosecutor, Ms. Stoeckley couldn't have known it was there unless she had been in the house. Mr. Britt says in his affidavit that after Ms. Stoeckley admitted she was in the house, the prosecutor responded: "If you testify before the jury as to what you have told me, I will indict you for murder." In yesterday's motion, Dr. MacDonald's current lawyers, led by Timothy Junkin of Gaithersburg, Md., argued that the prosecutor's alleged threat "caused her to change her testimony, as the next day, when called to the witness stand by the defense, Stoeckley claimed to have amnesia as to her whereabouts" on the night of the MacDonald murders. Mr. Britt, who retired in 1990, says in his affidavit that he decided to tell his story in January 2005 to Wade M. Smith, Dr. MacDonald's 1979 trial lawyer, because he needed to unload the "moral burden" he says he carried for years. "Ultimately, I decided that I had a duty to come forward," he says. He told his long-kept secret to two friends from the Marshal's Service in 2004, his affidavit says. One of them confirmed his account in an affidavit. According to the legal motion filed yesterday, he passed a polygraph exam regarding the 1979 events this year. Reached by telephone, Mr. Britt declined to elaborate on his statement, saying he doesn't want to speak to anyone but a federal judge who will decide whether to reopen the case. Mr. Blackburn, the prosecutor to whom Mr. Britt says Ms. Stoeckley told her story, has his own troubled past. Soon after the MacDonald case ended, Mr. Blackburn went into private law practice. In 1993, he pleaded guilty in federal court in Raleigh to multiple felony counts, including forgery, embezzlement and obstruction of justice. He admitted to stealing \$234,000 from his Raleigh law firm, and to forging the signatures of judges on bogus legal rulings in cases he claimed he had taken to court but hadn't. He was disbarred and spent 3 1/2 months in prison in 1994. Mr. Blackburn was represented in his criminal case by Mr. Smith, the same Raleigh lawyer who represented Dr. MacDonald at trial. In "Flame-Out," a self-published autobiography, Mr. Blackburn writes of his successful prosecution of Dr. MacDonald and his subsequent depression and fall from grace. In a foreword to the book, Mr. Smith wrote: "Mr. Blackburn is unable to escape the [MacDonald] case, and like a black hole it tugs at him, inviting him to oblivion." Mr. Blackburn, 61, now is a motivational speaker who gives ethics lectures to lawyers. In an interview in June in the Raleigh, N.C., oyster bar where he waited tables for three years after his release from jail, Mr. Blackburn recalled speaking at length to Ms. Stoeckley on the day cited by Mr. Britt in his affidavit. But he denied that Ms. Stoeckley ever admitted to being in the MacDonald home on the night of the murders. He said he didn't recall the presence of a federal marshal in the room, but said he does remember that Brian M. Murtagh, his co-counsel in the case, and George Anderson, the former U.S. attorney in Raleigh, were there. Mr. Murtagh, now deputy chief of the Terrorism and Violent Crime section in the Justice Department's criminal division, declines to comment. Mr. Anderson says he may have been there but won't comment further. Legal experts say Dr. MacDonald's effort to have the federal appellate courts consider new evidence may depend, among other things, on whether his lawyers can show that the evidence would likely have affected the verdict, and that the government had known of it and concealed it. The outcome, outside lawyers say, could turn in part

on credibility: Mr. Britt's against Mr. Blackburn's. This summer, Mr. Blackburn bumped into his former lawyer, Mr. Smith, at the Raleigh restaurant where he once worked. Mr. Smith recalls telling Mr. Blackburn: "Jim, you know this MacDonald case is never going to go away. It's never going to die." "I know," Mr. Blackburn responded, according to both men.

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