

FILED: June 9, 2009

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-8525
(3:75-cr-00026-F-1; 5:06-cv-00024-F)

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JEFFREY R. MACDONALD,

Defendant - Appellant.

NEW ENGLAND INNOCENCE PROJECT; THE INNOCENCE PROJECT; NORTH
CAROLINA CENTER ON ACTUAL INNOCENCE.

Amici Supporting Appellant.

O R D E R

The court grants a certificate of appealability on the issue of whether the district court's procedural decisions prohibiting expansion of the record to include evidence received after trial and after the filing of the 28 U.S.C.A. § 2255 (West Supp. 2009) motion was erroneous in light of 28 U.S.C. § 2244(b)(2)(B)(ii) (2006). The Clerk shall issue a briefing

order directing the filing of formal briefs and a joint appendix.

FOR THE COURT

/s/ Patricia S. Connor
Clerk