

IN THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF GEORGIA  
COLUMBUS DIVISION

CARLTON GARY,	*	
	*	
Petitioner,	*	
	*	
v.	*	Civil Action No. 4:97-CV-181
	*	
WARDEN WILLIAM TERRY,	*	
	*	
Respondent	*	

ORDER

Petitioner has filed a Motion to Reconsider the Court's Order of December 10, 2010 (ECF No. 214). That Order denied compensation to Petitioner's counsel for fees related solely to counsel's work on a motion for new trial in the state court. Given the precedential effect this ruling will have on future compensation of Petitioner's counsel, the Court finds it appropriate to schedule a hearing on Petitioner's motion. Accordingly, counsel for the parties shall appear for a hearing at 10:00 A.M. on January 13, 2011 at the United States Courthouse, Columbus, Georgia. If counsel for Petitioner believes it is legally necessary for Petitioner to attend the hearing, counsel shall notify the Court by filing a written notice of counsel's position including citation of authority supporting counsel's position. The notice shall be filed by January 5, 2011.

Since the Court's ruling on this issue affects the treasury of

the United States, the Clerk is directed to serve a copy of this order upon the United States Attorney for the Middle District of Georgia, so that the United States can make a determination as to whether it wants to be heard on this issue.

In addition to the precise issue presented by Petitioner's Motion for Reconsideration, the parties should be prepared to address the following issues at the hearing:

- 1) If the United States is responsible for compensating counsel for filing a motion for new trial in state court, is it also responsible for compensating counsel for any and all appeals from any order denying that motion as well as any subsequent new state habeas actions relating to the DNA evidence?
- 2) Does Petitioner have the right to a second clemency hearing before the state Board of Pardons and Paroles based upon the "new" DNA evidence, and if so, is the United States responsible for compensating counsel for any work done in relation to a second clemency hearing?

It is so ordered, this 27<sup>th</sup> day of December.

        S/Clay D. Land  
Clay D. Land  
United States District Judge