

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:16-cv-00149-MR
CRIMINAL CASE NO. 1:12-cr-00085-MR-1**

DONZELL ALI McKINNEY,)	
)	
)	
Petitioner,)	
)	
vs.)	<u>ORDER</u>
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	
_____)	

THIS MATTER is before the Court *sua sponte*.

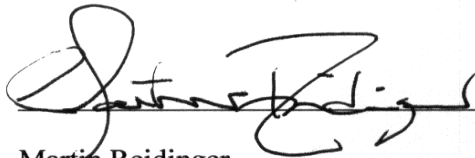
This matter was previously held in abeyance pending a decision by the Fourth Circuit Court of Appeals in United States v. Simms, No. 16-4640. The Fourth Circuit decided Simms on January 24, 2019.

On January 4, 2019, the Supreme Court granted a petition for writ of certiorari in United States v. Davis, No. 18-431 (cert. granted Jan. 4, 2019). Because the Supreme Court will address the issue decided by the Fourth Circuit in Simms, and which is presented in this case, the Court will continue to hold this case in abeyance pending a decision in Davis.

IT IS, THEREFORE, ORDERED that this matter is hereby held in abeyance pending the Supreme Court's decision in United States v. Davis, No. 18-431 (cert. granted Jan. 4, 2019). Thereafter, the Government shall have 60 days from the date that the Supreme Court issues its decision in Davis within which to file its response in this matter.

IT IS SO ORDERED.

Signed: February 18, 2019


Martin Reidinger
United States District Judge

