

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:10-CV-00488-RJC
3:04-CR-271-07-RJC

NICHOLAS RAGIN)

v.)

UNITED STATES OF AMERICA)
_____)

ORDER

THIS MATTER comes before the Court upon the Government's Motion to require former counsel to produce an affidavit and to continue the evidentiary hearing scheduled for April 28, 2014. (Doc. No. 36).

The Court previously determined that an evidentiary hearing is necessary to resolve Petitioner's claim that his attorney provided ineffective assistance when he fell asleep during trial. (Doc. No. 34: Order at 1). Therefore, the Court finds that compelling former counsel to provide an affidavit would not likely resolve this matter; rather, the Government may choose to subpoena witnesses to give testimony at the hearing.

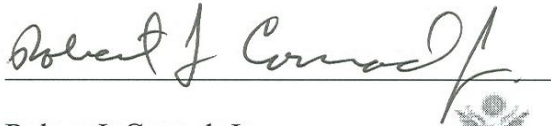
For the reasons stated in the Government's motion, the Court finds good cause for a continuance of the hearing.

IT IS, THEREFORE, ORDERED that:

1. The Government's motion for an order compelling the production of an affidavit is **DENIED**; and
2. The Government's motion to continue the hearing is **GRANTED**, and the hearing is re-scheduled to Tuesday, May 13, 2014, at 10:30 a.m. in Robert D. Potter Courtroom of the United States Courthouse in Charlotte, North Carolina.

The Clerk is directed to certify copies of this Order to Petitioner, Counsel for Petitioner, the United States Attorney, and the United States Marshals Service.

Signed: April 8, 2014

A handwritten signature in cursive script, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.
United States District Judge

