

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

UNITED STATES OF AMERICA,)

Plaintiff,)

v.)

DENNY RAY HARDIN,)

Defendant.)

Case No. 10-00131-01-CR-W-FJG

MOTION FOR DETERMINATION OF COMPETENCY

The United States of America, by Beth Phillips, United States Attorney for the Western District of Missouri, and the undersigned Assistant United States Attorney, files this Motion for Determination of Competency and request the Court to hold a hearing pursuant to 18 U.S.C. § 4241 to determine whether defendant DENNY RAY HARDIN is presently suffering from a mental disease or defect rendering him unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense. To aid the Court's determination of the defendant's present mental competency, the United States also moves the Court to order a psychiatric or psychological examination of the defendant, with a report from such an examination to be filed with the Court.

SUPPORTING SUGGESTIONS

In support of its Motion for Determination of Competency, the United States respectfully submits the following:

1. On May 5, 2010, a grand jury in the Western District of Missouri returned a 21-count indictment against defendant DENNY RAY HARDIN alleging eleven counts of creating fictitious obligations in violation of 18 U.S.C. § 514; four counts of mail fraud affecting a financial institution in violation of 18 U.S.C. § 1341; and six counts of mail fraud in violation of 18 U.S.C. § 1341.

2. At the time of his indictment, HARDIN was incarcerated by the State of Missouri at the Moberly Correctional Center relating to a 2006 felony conviction for Tampering with a Judicial Proceeding. That conviction related to a statement HARDIN made regarding harming a Kansas City, Missouri, Municipal Court judge and demolishing that judge's courtroom.

3. The United States has received documents from the State of Missouri indicating that while HARDIN was incarcerated at the Moberly Correctional Center he was diagnosed with a mental condition and that his prognosis was poor.

4. Based on the totality of information obtained during its investigation, the United States believes that HARDIN does not presently suffer from any mental disease or defect and that he both understands the nature of the proceeding against him and is capable of aiding properly in his defense.

5. Nonetheless, the United States further believes that the information obtained from the State of Missouri regarding HARDIN's mental health warrants a determination of present competency to proceed to trial under 18 U.S.C. § 4241.

WHEREFORE, the United States moves this Court pursuant to 18 U.S.C. § 4241 for a judicial determination of defendant's mental competency. Accordingly, the United States respectfully requests the Court to order a mental examination of the defendant by at least one qualified psychiatrist or psychologist who shall prepare a report to this Court concerning the

defendant's mental ability to understand the proceedings presently pending against him and to properly assist his counsel in his defense.

Respectfully submitted,

Beth Phillips
United States Attorney

By */s/ Brian P. Casey*

Brian P. Casey
Assistant United States Attorney

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was delivered on May 13, 2010, to the CM-ECF system of the United States District Court for the Western District of Missouri for electronic delivery to all counsel of record.

/s/ Brian P. Casey _____
Brian P. Casey
Assistant United States Attorney