

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

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.) Criminal Action No.
) 10-00131-01-CR-W-FJG
 DENNY RAY HARDIN,)
)
 Defendant.)

REPORT AND RECOMMENDATION

On May 13, 2010, counsel for both Defendant and the Government filed motions pursuant to 18 U.S.C. § 4241 for a judicial determination of Defendant's mental competency (Doc. Nos. 13, 15). Defendant was examined by Jeremiah Dwyer, Ph.D., who prepared a report dated August 19, 2010. The report stated, in relevant part:

Based on the information available, there is objective evidence to indicate that Mr. Hardin may suffer from a mental disorder that significantly impairs his present ability to understand the nature and consequences of the court proceedings against him, and the cognitive ability to properly assist counsel in his defense. Mr. Hardin has the factual cognitive ability to understand the nature and consequences of the court proceedings against him, and the cognitive ability to properly assist counsel in his defense. However, his fixed beliefs are intimately entwined with the substance of the case against him and thus, his ability to cooperate with counsel and assist in his defense is presently undermined. He lacks sufficient insight into these impaired beliefs, and is likely to want to engage in counterproductive legal strategies against the advice of his attorney.

Hence, it is recommended that Mr. Hardin be committed to a federal medical center for treatment and restoration to competency pursuant to 18 U.S.C. Section 4241(d). The commitment period would allow, first, for a more direct, intensive observation period of Mr. Hardin, to further determine whether Mr. Hardin's beliefs rise to a level of delusion. Second, should Mr. Hardin's beliefs be confirmed as delusions, a period of restoration would allow for mental health treatment to assist Mr. Hardin in gaining improvement in his condition, and regaining his ability to fully participate in the court process, and determine whether or not he could be restored to competency in the foreseeable future.

(Doc. No. 27).

On September 9, 2010, I held a competency hearing. Defendant was present, represented by appointed counsel Anita Burns. The government was represented by Assistant United States Attorney Brian Casey. During the hearing, both parties stipulated to Dr. Dwyer's report (Tr. at 2). Neither party presented any additional evidence.

Based upon the uncontroverted evidence stipulated to by the parties in this case, I find that Defendant is not competent to stand trial and to assist in his defense. Therefore, it is

RECOMMENDED that the court, after making an independent review of the record and applicable law, enter an order finding Defendant incompetent to stand trial and to assist in his defense. It is further

RECOMMENDED that the court commit Defendant to the custody of the Attorney General for hospitalization and treatment pursuant to 18 U.S.C. § 4241(d).

/s/ Robert E. Larsen
ROBERT E. LARSEN
United States Magistrate Judge

Kansas City, Missouri
September 13, 2010