

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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UNITED STATES OF AMERICA,

Plaintiff,

v.

THOMAS TUMINSKAS, II.,

Defendant.

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ORDER

02-CR-44-C

A hearing was held in this case on April 1, 2003, to determine whether defendant's release would create a substantial risk of bodily injury to another person or serious damage to property of another as a result of a present mental defect. The government appeared by Rita Rumbelow, Assistant United States Attorney; defendant appeared by Michele Tjader and participated by telephone. Also participating by telephone was Kelly Ball, Psy.D.

From the record, I find that defendant was arrested on March 22, 2002, and charged with being a felon in possession of a firearm and theft of a firearm. Shortly after his arrest, defendant was referred to the Federal Medical Center, Rochester, Minnesota, for a

competency evaluation. He has remained at FMC-Rochester throughout all pretrial proceedings. On February 27, 2003, defendant was adjudged not guilty by reason of insanity. A dispositional hearing was scheduled for March 21, 2003, but continued because of scheduling problems.

From my review of the record and the release and treatment plan proposed by the Bureau of Prisons, I find by clear and convincing evidence that the conditional release of defendant would not create a substantial risk of bodily injury to another person or serious damage to property of another because of his mental disease or defect.

Therefore, IT IS ORDERED that defendant is DISCHARGED CONDITIONALLY under a prescribed regimen of medical, psychiatric and psychological care and treatment, with the following special conditions:

1) Defendant is to reside at 743 McKinley Avenue, Beloit, WI 53511; (608) 362-4784, with his parents, Thomas and Albertine "Tina" Tuminkas. He is not to make any change in his residence without the advance approval of the mental health providers and the supervising U.S. probation officer.

2) Within 24 hours of his conditional release, defendant is to appear for an initial appointment at the Beloit Counseling Center, 822 Broad Street, Beloit, WI; telephone (608)

363-6300. He is to comply with psychiatric treatment as directed by the treatment team, with such treatment to include oral and injectable medications and the continuance of anti-psychotic drug treatment.

3) While defendant is in outpatient counseling, he may be admitted as an inpatient to any facility designated by the Wisconsin Department of Mental Health and Mental Retardation, should his treating clinicians deem it necessary. If no Wisconsin facility will assume his care, defendant will be returned to FMC - Rochester.

4) Defendant is to have weekly contact with the person who is primarily responsible for his care at the Beloit Counseling Center, 822 Broad Street, Beloit, Wisconsin.

5) Defendant is to abstain from all use of alcohol and other drugs not prescribed by his treating physician. Defendant's treating physician shall not discontinue the administration of anti-psychotic drugs to defendant without providing advance written notice to the probation office.

6) Defendant is to submit to urine analysis and other drug testing for the detection of use of controlled substances and undergo regular urine and serum blood level screening if ordered by the treating physician to ensure abstinence from substances and the maintenance of a therapeutic level of medication.

7) Defendant is to participate in outpatient substance abuse counseling as directed by the U.S. probation officer.

8) Defendant is to have daily contact with his mother and father, Tina and Thomas Tuminskas until such time as the U.S. probation officer believes modification of this requirement is justified. If at any time Tina and Thomas Tuminskas have information that might relate to defendant's safety or the safety of the community, they are to report it to the probation office within 24 hours of receiving it.

9) Defendant shall not possess any firearms, destructive device or other dangerous weapons. (Federal laws prohibit convicted felons from holding, possessing, receiving or having access to any firearms, ammunition, destructive devices, or explosive devices. A firearm may include a handgun, rifle, or shotgun or other explosive devices pursuant to 18 U.S. § 922(g). Additional state laws restrict the possession of firearms by convicted felons.)

10) Defendant is to report any contact with any law enforcement officer to the probation office within 24 hours of the contact.

11) Defendant shall not commit another federal, state or local crime.

12) Defendant is to provide a written unrestricted release of information allowing his treating physicians, psychiatrists, psychologists, counselors, social workers and case managers to have open and unrestricted communication with the court, the U.S. Probation Office, and defendant's parents, Thomas and Tina Tuminskas, including any information the treatment

staff believes relates to the safety of defendant or the community and his compliance and adjustment to medications and counseling.

13) An annual hearing to review defendant's compliance with conditional release will occur in March of each year. If defendant has been complying with the conditions of release, the annual hearing may be completed by telephone. Consistent with 18 U.S.C. § 4243(g), defendant may be arrested and brought before the court for judicial review at any time if he appears to be having difficulty in complying with his conditions of release. The court shall determine whether defendant has failed to comply with the prescribed regimen of medical, psychiatric or psychological treatment and, if so, whether he should be remanded to a suitable facility on the ground that his continued release would create a substantial risk of bodily injury to another person or serious damage to property of another.

14) Before the treatment facility discharges defendant from all mental health care, it must notify the United States District Court for the Western District of Wisconsin to permit the court to review the conditions of release.

These conditions are necessary to provide the appropriate level of care and monitoring necessary for defendant. If he fails to comply with any of the conditions, he will be returned to court for modification or revocation of his conditional discharge.

The Bureau of Prisons is directed to arrange for defendant's transportation to his home in Beloit, Wisconsin, and for defendant's initial appointment with the Beloit

Counseling Center staff. The supervising U.S. probation officer and the Bureau of Prisons are to participate in defendant's initial conference with counseling center personnel.

Entered this 1st day of April, 2003.

BY THE COURT:

BARBARA B. CRABB  
District Judge