

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

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UNITED STATES OF AMERICA,

Plaintiff,

v.

ORDER

JASON SHRAKE,

05-CR-133-S

Defendants.

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On June 13, 2006 Magistrate Judge Steven L. Crocker held a competency hearing in the above entitled matter and found the defendant Jason Shrake competent to stand trial. Defendant objects to this finding and moves reconsideration. This Court will address the defendant's motion together with the government's response.

FACTS

Dr. Shawn Channell, a forensic psychologist, performed a competency evaluation on the defendant Jason Shrake and submitted a March 21, 2006 report. He conducted a MMPI-II, MCMI III, a brief measure of his intelligence and a competency interview as part of his evaluation. Dr. Channel concluded that Shrake had anxiety and personality disorders and was competent to proceed.

The Magistrate Judge held a competency hearing for Shrake on June 13, 2006. Shrake appeared in person with stand-by counsel

Jonas Bednarek. Dr. Channel appeared telephonically. Assistant United States Attorney Elizabeth Altman appeared for the government.

Defendant's stand-by counsel questioned Dr. Channell. The Magistrate Judge then allowed the defendant to question Dr. Channell exclusively for 55 minutes. Attorney Altman then asked Dr. Channel whether there was anything in the interaction at the hearing with the defendant that changed his opinion of defendant's competency. Dr. Channell answered, "No. In fact, it serves to strengthen my opinion that he is competent to stand trial."

The Magistrate asked him to explain. Dr. Channell stated, "Well, I believe, I mean, there's no evidence in his behavior or statements indicative of any delusional thought process, or any lack of being in touch with reality, any confusion or disorganization of a psychotic nature."

At the conclusion of the hearing, the Magistrate Judge made the following statement:

I'm seeing a very intelligent, well-prepared, well-read, articulate young man who was able to hold his own against a medical doctor, was able to ask good questions, was able to cross-examine thoroughly, is able to communicate effectively with the Court and with his own attorney. In other words, you're doing as good a job or a better job than some lawyers that I see appear in front of me who have been to law school.

Nothing I am seeing indicates to me that you are unable to understand the nature of the proceedings against you. Quite the contrary, you seem to understand very clearly what's

going on, the consequences you face, the problems you've got, and you have a very clear strategy about how you would like to resolve those problems in your best interest. I mean that is the epitome, that is the apex of being prepared and being competent.

In an order dated June 13, 2006, the Magistrate Judge found the defendant legally competent to stand trial pursuant to 18 U.S.C. §4241(a) and § 4247(d).

#### MEMORANDUM

A defendant is not mentally competent to stand trial if the Court finds by a preponderance of the evidence that the defendant is presently suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense. 18 U.S.C. § 4241(d).

In this case the evidence is overwhelming that although defendant is diagnosed with an anxiety disorder and a personality disorder, he is mentally competent to stand trial. Dr. Channell's report concludes that the defendant is competent to stand trial. The defendant's submissions together with his presentation at the hearing indicate that he is clearly able to understand the nature and consequences of the proceedings against him and to assist properly in his defense. The defendant was able to communicate effectively with his stand-by counsel and with the Magistrate Judge at the hearing. In addition he effectively cross-examined Dr. Channell.

The Court affirms the Magistrate Judge's finding that defendant is competent to stand trial.

ORDER

IT IS ORDERED that the decision of the Magistrate Judge that defendant is competent to stand trial is AFFIRMED.

Entered this 23<sup>rd</sup> day of June, 2006.

BY THE COURT:

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JOHN C. SHABAZ  
District Judge