

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

JARRELL A. MURRAY,

Defendant.

ORDER

08-cr-87-bbc-4

Following the January 27, 2009 ex parte hearing on the motion for appointment of a new attorney filed by counsel for defendant Jarrell A. Murray, counsel filed a motion to determine Murray's mental competency. *See* dkt. 155. Having heard from counsel and the United States Marshals Service, and having observed Murray at the hearing, I find that there is reasonable cause to believe that Murray currently is suffering from depression severe enough to render him incompetent to assist properly in his own defense.¹

Therefore, pursuant to 18 U.S.C. §§ 4241(b), 4242(a), 4247(b) and 4247(c), it is ORDERED that:

1. Defendant Jarrell A. Murray is committed to the custody of the Attorney General or his representative for a period of 45 days, not counting transportation time, for a psychiatric or psychological examination conducted by a licensed or certified psychiatrist or psychologist, such examination to be conducted at the suitable federal facility that is closest to the court, unless this is impractical.

¹ Murray also is having trouble thinking clearly right now because he just started taking a new antibiotic that hinders his ability to focus and concentrate. This seems to be a short-term problem that could be ameliorated without a psychological examination or treatment.

2. The examiner(s) shall prepare a psychiatric or psychological report which shall be filed with this court, with copies provided to defendant's attorney and the Assistant U.S. Attorney in this case. The report shall include:

- (1) Defendant's history and present symptoms;
- (2) A description of the psychiatric, psychological, and medical tests that were employed and their results;
- (3) The examiner's findings;
- (4) The examiner's opinions as to diagnosis, prognosis, and
A) the examiner's opinion whether defendant is 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.

3. To assist in the examination and report, pretrial services shall obtain from the following persons the following documents, which pretrial services shall send forthwith to the designated institution, along with a copy of the pretrial services report:

- (1) Clerk of Court: all documents, including any sealed documents, filed in this case regarding this defendant;
- (2) U.S. Attorney: all Rule 16 discovery and any other documents that might assist the examiners in their evaluation;
- (3) U.S. Marshals Service: any reports or other information about defendant's medical or mental health while detained in this case; and
- (4) Defense counsel: any other documents counsel believes might assist the examiners in their evaluation.

4. The 45 day period of commitment may be extended by up to 30 days if such an extension is requested by the director of the facility and if the director shows good cause that additional time is necessary to observe and evaluate defendant.

5. After receiving the examiner's report this court shall hold a hearing pursuant to §4247(d) to determine whether defendant is competent to stand trial in this case. Further scheduling will take place thereafter as necessary.

6. Time from January 27, 2009 until the court's final determination of defendant's competency is excluded from computation under the Speedy Trial Act pursuant to 18 U.S.C. §§ 3161(h)(1)(A) and (H).

Entered this 29th day of January, 2009.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge