

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOHN E. HENRICKS, III,

Defendant.

ORDER

13-cr-83-bbc

16-cv-101-bbc

In January 2014, defendant John Henricks pleaded guilty to three counts of criminal fraud. As part of defendant's sentence, I ordered him to pay approximately \$1.3 million in restitution. In May 2014, I granted the government's motion to issue a writ of execution with respect to several pieces of real and personal property because defendant had not been making his required restitution payments. A few days later, defendant's wife, Catherine Henricks, filed a bankruptcy petition, several months after she had filed for divorce. At this time, three motions are before the court in the criminal case and the civil action filed by Catherine Henricks, both of which involve the issue of defendant's restitution obligation.

Defendant John E. Henricks, III, has now filed a motion for appointment of counsel, dkt. #148. His motion is GRANTED. Appointment of counsel under the Criminal Justice

Act, 18 U.S.C. § 3006A(c) is appropriate in the ancillary proceedings that appear to be necessary to determine defendant's restitution obligation.

Although defendant had retained counsel in the criminal prosecution, I am persuaded that he qualifies financially for court-appointed counsel at this time if only because it is likely that any funds defendant has will be subject to the restitution order. If it turns out that I am wrong, defendant can be required at that time to reimburse the government for the costs of his court-appointed counsel.

ORDER

IT IS ORDERED that defendant John Henricks, III's motion for appointment of counsel is GRANTED. The federal defender is directed to appoint counsel to represent defendant at government expense in any ancillary proceedings that may be necessary for the determination of defendant's ability to meet his restitution obligations.

IT IS FURTHER ORDERED that the briefing schedule on the pending motions (13-cr-83-bbc, dkt. #143; 16-cv-101-bbc, dkt. ## 2 and 6) is stayed. Once counsel has been

appointed, a scheduling conference will be held before the magistrate judge.

Entered this 20th day of April, 2016.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge