

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

UNITED STATES OF AMERICA

v.

CASE NO. 6:22-cr-00201-WWB-LHP

EVAN EDWARDS
a/k/a Ian Heringa

**GOVERNMENT’S RESPONSE TO DEFENDANT’S RENEWED MOTION
FOR RELEASE ON BOND AND REQUEST FOR DETENTION HEARING**

The United States of America by Roger B. Handberg, United States Attorney for the Middle District of Florida, in accordance with this Court’s Order (Doc. 100) (the “Order”) hereby files this response to defendant’s Renewed Motion for Release on Bond and Request for Detention Hearing, and states:

I. BACKGROUND RELATED TO DETENTION

1. On February 24, 2023, the Court entered an Order committing the defendant to the custody of the Attorney General for placement at a suitable facility to examine the defendant and to assess whether he is competent to proceed pursuant to the provisions of 18 U.S.C. §§ 4247(b), (c) and 4241(b). Doc. 85. That Order provided that “[t]he term of commitment shall be for a reasonable period, not to exceed thirty (30) days.” While the Order limited the term of commitment to 30 days, it did not provide a specific deadline for completion of the corresponding report.¹

¹ Nor does the express language of §§ 4241 or 4247(b), (c) require that the BOP’s report be filed within the 30-day evaluation period.

2. The Court's February 24, 2023 Order also stated, in accordance with the defendant's medical needs and with the information known to the parties at that time, that "a suitable facility is the Federal Medical Center in Butner, North Carolina ("FMC Butner")." Additionally, the Order required that USMS promptly advise the Court and counsel for the parties "once the Attorney General has designated a facility for Evan Edwards' evaluation."

3. On April 25, 2023, the undersigned AUSA received notice from BOP that the defendant's designation was changed from FMC Butner to FMC Devens, where BOP has a unit specifically for individuals with dementia-related illnesses and could also provide the nursing care he needed. On April 25 and 26, 2023, the undersigned AUSA notified the Court and defense counsel, respectively, of the change in designation.

4. The defendant's evaluation period at FMC Devens ran from May 11, 2023 to June 10, 2023. On Saturday, June 10, 2023, the BOP's evaluation of the defendant was timely completed within the 30-day evaluation period. The following Monday, June 12, 2023, BOP notified USMS that the defendant's assessment was complete. Arrangements were then made by USMS to transport the defendant to an appropriate medical facility pending further competency proceedings. On June 27, 2023, the defendant was returned to a medical facility in Columbia, South Carolina.

5. Subsequently, the Bureau of Prisons completed its competency report (dated July 7, 2023) and obtained the appropriate execute approvals for release of the report. *See* Sealed Doc. 98. On July 18, 2023, a copy of the competency report was

provided to the parties.

6. As set forth in the Joint Notice filed at Doc. 101, the Government does not contest the BOP's finding of incompetence. However, the Government submits that commitment to the Attorney General under 18 U.S.C. § 4241(d) is mandatory, even if there is evidence that the defendant's competency is not restorable.

7. On July 19, 2023, the defendant filed a renewed motion for release on bond and request for detention hearing (the "Detention Motion"). Doc. 99.

8. As set forth below, the United States believes that conditions of release are appropriate at this point in the proceedings, including but not limited to, release of the defendant to the custody of his family member(s). The United States respectfully requests that the Court set a detention hearing to determine appropriate conditions of release.

II. GOVERNMENT'S POSITION ON BOND

As set forth above, the BOP evaluated the defendant within the time period permitted by the Court and by statute. Further, the BOP report was prepared in a timely manner following evaluation. Thus, there has been no inappropriate delay in addressing the Defendant's condition. In fact, the BOP redesignated the defendant to FMC Devens in an effort to place the defendant in the most equipped medical facility as quickly as possible. Therefore, the competency process in this case has been handled in strict accordance with this Court's Orders and with the applicable statutory framework in an effort to address the defendant's competency issues quickly and adequately.

In light of the BOP's finding of current incompetence, to which the United States has no objection, the United States submits that the risk of flight and dangerousness posed by the defendant are currently mitigated to the point that conditions of release are appropriate. Specifically, the United States agrees to the release of the defendant to the custody of his family (acting as third-party custodian(s)), along with other appropriate conditions of release.

Additionally, in the event that the Court orders the defendant committed for competency restoration under 18 U.S.C. § 4241(d), the United States would also seek a condition that would require the defendant's family to transport and deliver him to the designated BOP facility on the date(s) that would be provided by BOP.

WHEREFORE, the United States respectfully requests that the Court set a detention hearing to address appropriate conditions of release.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on July 27, 2023, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system, that will provide notice to the following counsel:

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/s/ Kara M. Wick

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