

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

UNITED STATES OF AMERICA,)

Plaintiff,)

v.)

EVAN EDWARDS,)

Defendant.)

Case No. 6:22-cr-00201-WWB-LHP

**DEFENDANT’S MOTION FOR
RECONSIDERATION OF ORDER [DKT. 136]**

COMES NOW, the Defendant, Evan Edwards [hereinafter “Defendant”], by and through the undersigned counsel, and respectfully moves the Court to reconsider its Order entered on March 18, 2024, in light of the text of the United States Bureau of Prisons’ Forensic Report with respect to the Defendant, which report included an express analysis of section 4241(d). In support thereof, the Defendant states as follows:

FACTUAL BACKGROUND

1. On March 18, 2024, the Court accepted Magistrate Judge Leslie Hoffman Price’s Report and Recommendation that the Defendant be committed to the custody of the Attorney General for hospitalization and treatment to assess the probability of the Defendant attaining capacity to permit the proceedings in this

action to go forward. Dkt. 136.

2. Specifically in the Order, the Court states the following:

The Court is also not persuaded that the mere existence of a prognosis in the initial report means that the issuing provider considered and evaluated Defendant on the same basis as she would have if the commitment had been made pursuant to subsection d or that she was able to glean the same information in thirty days that she may in the longer period applicable under subsection d. *There is no reference to subsection d in the report.*

Dkt. 136, p. 5 (emphasis added).

3. Although the report, confessedly, was not generated in response to Court-ordered restorability analysis under section 4241(d), the report does state, after a lengthy recitation of the defendant' mental state and with an eye to the procedures under sec. 4241, the following: "a period of restoration to competency pursuant to Title 18, United States Code, Section 4241(d) is not indicated for Mr. Edwards as he is not expected to benefit from educational interventions in light of his neurological disorder." Bureau of Prisons Report, p.7.

4. It is of note that this report was generated by the same facility to which this Court has ordered Mr. Evans to report for just such a restorability analysis. The undersigned is mindful of the facially unambiguous statutory and case law germane to this issue. Nevertheless, the facts support the contention that returning Mr. Evans to the custody of the Bureau of Prisons would be a useless act. As a result of the foregoing, the Defendant moves this Court to reconsider its Order committing the

Defendant to the custody of the Attorney General for the purpose of treatment to assess the probability of the Defendant attaining capacity to permit the proceedings in this action to go forward, given that the Bureau of Prisons has explicitly deemed him unable to benefit from any further educational interventions in a restoration period under 18 U.S.C. § 4241(d).

MEMORANDUM

In order to succeed on a motion for reconsideration, the movant “must demonstrate why the court should reconsider its prior decision and ‘set forth facts or law of a strongly convincing nature to induce the court to reverse its prior decision.’” Florida Coll. of Osteopathic Med., Inc. v. Dean Witter Reynolds, Inc., 12 F. Supp. 2d 1306, 1308 (M.D. Fla. 1998) (quoting Cover v. Wal-Mart Stores, Inc., 148 F.R.D. 294, 295 (M.D. Fla. 1993)). Courts generally recognize three grounds justifying reconsideration: (1) an intervening change in controlling law; (2) the availability of new evidence; and (3) the need to correct clear error or manifest injustice. Id. at 3.

Additionally, a motion for reconsideration should not be used to present the Court with arguments already heard and dismissed, or to offer new legal theories or evidence that could have been presented previously. See Arthur v. King, 500 F.3d 1335, 1343-44 (11th Cir. 2007); O’Neal v. Kennamer, 958 F.2d 1044, 1047 (11th Cir. 1992); Pres. Endangered Areas of Cobb’s History, Inc. v. U.S. Army Corps of Eng’rs, 916 F. Supp. 1557, 1560 (N.D. Ga. 1995), aff’d 87 F.3d 1242 (11th Cir.

1996) (“A motion for reconsideration is not an opportunity for the moving party and their counsel to instruct the court on how the court ‘could have done it better’ the first time.”).

With respect to the Court’s ruling on March 18, 2024, the Defendant respectfully states that the Court’s failure to acknowledge that the Bureau of Prisons has examined the Defendant under 18 U.S.C. § 4241(d)’s requirements warrants clear error. While the Defendant is mindful of the Court’s position that a longer period of restorability treatment may still be necessary, the Defendant brings the instant motion purely to shed light on the present, conflicting analyses. The Bureau of Prisons medical evaluators have conclusively and unambiguously examined the Defendant under 18 U.S.C. § 4241(d), determining that no further treatment is warranted; however, the Court’s Order concludes that the Bureau of Prisons has not conducted any examination of the Defendant under 18 U.S.C. § 4241(d).¹

As a result of the foregoing, reconsideration by the Court is warranted in order to ensure that proper deference to the Bureau of Prisons’ evaluation of the Defendant is given.

WHEREFORE, the Defendant, by and through the undersigned counsel, respectfully requests this Court to reconsider its Order of March 18, 2024, Docket

¹ The Defendant maintains its Objections to the Magistrate Judge’s Report and Recommendation, Docket No. 117, and further states that the Bureau of Prison’s report should be given its due deference, specifically that any period of restorability treatment under 18 U.S.C. § 4241(d) will not benefit the Defendant nor improve his condition.

No. 136, to review the Bureau of Prisons' explicit conclusion that the Defendant would not benefit from a period of restoration to competency under 18 U.S.C. § 4241(d).

Respectfully submitted this 26th day of March, 2024.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 26th day of March, 2024, I filed a copy of the foregoing with the Clerk of the Court via the CM/ECF system. I further certify that all parties to this case are equipped to receive service of documents via that system.

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