

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

**GOVERNMENT’S TIME SENSITIVE MOTION TO PROHIBIT ORMC FROM
DISCHARGING THE DEFENDANT UNTIL TRANSPORT TO BOP
FACILITY OCCURS**

The United States of America by Roger B. Handberg, United States Attorney for the Middle District of Florida, hereby moves the Court to prohibit Orlando Regional Medical Center (“ORMC”) from discharging the Defendant, Evan Edwards, until USMS/JPATS can transport the defendant to the BOP facility (FMC Devens), and states:

INTRODUCTION

This motion is designated time sensitive because ORMC has indicated that the Defendant will be discharged today from its care. ORMC does not interpret the Court’s prior orders in this case from requiring the Defendant’s admission until his transport to BOP, which is anticipated to occur within 72 hours of receipt of the required medical records from ORMC. Given the Defendant’s current medical status, a local jail will not house the Defendant. Thus, if the Defendant is discharged from ORMC, the Defendant will be in the custody of USMS, but USMS is not prepared to accommodate any medical situation until it has received the USMS Form 553 –

Prisoner in Transit Medical Summary and make accommodations for any medical needs. That process takes approximately 72 hours.

BACKGROUND

1. Evan Edwards (the “Defendant”) has been found incompetent to stand trial under 18 U.S.C. § 4241(b) and this Court has ordered treatment pursuant to 18 U.S.C. § 4241(d). Doc. 136.

2. As requested by the Defendant, USMS is facilitating the Defendant’s transport to FMC Devens. Docs. 139, 145. However, in order to transport the Defendant, JPATS requires certain medical information.

3. On May 22, 2024, the Defendant was remanded back to the custody of the USMS by Court Order. Doc. 190. The Court also ordered:

On or before May 24, 2024, the United States is DIRECTED to file a notice with the Court confirming that Defendant has been admitted into Orlando Regional Medical Center for evaluation, providing an estimated date for completion of the medical evaluation, and providing a new date for Defendant’s surrender at FMC Devens.

4. On May 21, 2024, the Defendant was transported to ORMC for evaluation. ORMC was presented at that time with a copy of the above Order and with the Court’s prior Orders in this case. Although ORMC does not read the Court’s prior orders as requiring the Defendant’s admission, the Defendant had high blood pressure, which necessitated his admission. He was admitted to ORMC on the evening of May 21, 2024.

5. As of the date of filing this Motion, ORMC reports that the Defendant’s blood pressure is stable and that he will be discharged forthwith. The undersigned

counsel spoke on the phone with ORMC's legal department, whose position is that ORMC is free to discharge the Defendant when it deems the Defendant's discharge is medically appropriate. To date, ORMC has not provided all of the medical information necessary for the Defendant's transport to BOP.

6. Therefore, the United States hereby requests that the Court enter an Order prohibiting ORMC from discharging the Defendant until transport to the BOP facility can occur. Once ORMC provides the required medical information, transport should occur within 72 hours.

7. On May 23, 2024, the undersigned conferred with defense counsel, Brian Phillips, who stated that he has no objection to the Defendant remaining in the hospital until transport to Devens, as long as he (Attorney Phillips) is kept informed of the Defendant's location.

8. If the Court sets a hearing on this Motion on an emergency basis, the Government respectfully requests that the parties be permitted to appear by phone or electronic means.

MEMORANDUM

The Government is obligated to provide medical care to the Defendant, who is currently in USMS custody. *See, e.g., Baker Cnty. Med. Servs., Inc. v. U.S. Atty. Gen.*, 763 F.3d 1274, 1275 (11th Cir. 2014) (citing *Estelle v. Gamble*, 429 U.S. 97, 103, 97 S.Ct. 285, 50 L.Ed.2d 251 (1976) (The federal government bears a constitutional "obligation to provide medical care for those whom it is punishing by incarceration.")). Here, the Defendant cannot be transported to the BOP facility until the appropriate medical

clearance has occurred. Until such clearance has occurred, the Defendant's care should be continued at ORMC.

Moreover, ORMC is obligated to provide care to every person in need of care. See Fla. Stat. § 395.1041 ("The Legislature finds and declares it to be of vital importance that emergency services and care be provided by hospitals and physicians to every person in need of such care.").

WHEREFORE, the United States respectfully requests that this Court enter an Order prohibiting ORMC from discharging the Defendant until the Defendants transport to BOP can occur.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 23, 2024, a true and correct copy of the foregoing was filed via the CM/ECF filing system, which will send service to all counsel of record:

A. Brian Phillips, Esq.

/s/ Kara M. Wick
Kara M. Wick
Assistant United States Attorney