

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

UNITED STATES OF AMERICA

VS.

CASE NO: 6:22-cr-201-WWB-LHP

EVAN EDWARDS

**ORDER FINDING DEFENDANT INCOMPETENT
ORDER MODIFYING CONDITIONS OF PRETRIAL RELEASE
AND DIRECTION TO THE UNITED STATES MARSHALS SERVICE**

The Court previously found Defendant Evan Edwards not mentally competent to proceed as that term is defined in 18 U.S.C. § 4241(a), and remanded Defendant Evan Edwards to the custody of the Attorney General to be hospitalized for treatment in a suitable facility for a reasonable period of time, not to exceed four months, as was necessary to determine whether there was a substantial probability that in the foreseeable future he would attain the capacity to permit the proceedings to go forward. *See* 18 U.S.C. § 4241(d)(1); Doc. Nos. 117, 136. On September 12, 2024, Chad Brinkley, Ph.D., ABPP, a licensed psychologist Board-Certified in Forensic Psychology employed at the Federal Medical Center in Devens, Massachusetts (“FMC Devens”), issued a forensic psychological report opining that Defendant Evan Edwards remains incompetent to proceed pursuant to 18 U.S.C. §

4241(a), and is unlikely to become competent in the foreseeable future. Doc. No. 228 (sealed).

The undersigned thereafter held a status conference with counsel for both sides on October 8, 2024. Doc. Nos. 220-221, 224. During that hearing, the Court granted the United States' oral motion to appoint one additional expert – forensic neurologist Dr. Ryan Darby, M.D. – to review any and all available records and reports for Defendant Evan Edwards and to prepare and submit a report as to his competency and potential for restoration in the foreseeable future. Doc. Nos. 224, 226. Dr. Darby timely-submitted his report on October 29, 2024, in which he also opined that Defendant Evan Edwards is not competent to stand trial and that his likelihood of recovery and restoration to competency are low. Doc. No. 237 (sealed).

The undersigned held a previously scheduled status conference with counsel today, November 1, 2024. Doc. Nos. 227, 235. During that hearing, the undersigned discussed various competency-related issues with counsel, and also reviewed the United States' status report, filed on October 29, 2024. Doc. Nos. 234-235. At the conclusion of the discussion with the parties, counsel made clear that the issue of Defendant Evan Edwards' competency is no longer contested, and that no party is objecting to the opinions of either Dr. Brinkley or Dr. Darby.

Based on these representations and the United States' status report (Doc. No. 234), and upon an independent review of the facts of this case, to include the various submitted forensic reports, and a review of governing law, and finding no objection by the United States or Defendant Evan Edwards, I find that the question of Defendant Evan Edwards' competency is no longer contested. I further find by a preponderance of the evidence that Defendant Evan Edwards is incompetent to proceed pursuant to 18 U.S.C. § 4241(a) and (d). Specifically, I find that Defendant Evan Edwards is presently 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, that his mental condition has not so improved as to permit proceedings in this case to go forward, and that the chances his competency will be restored in the foreseeable future is low. See 18 U.S.C. § 4241(d).¹

¹ The undersigned is able to make this finding by an Order as opposed to a Report and Recommendation pursuant to the October 30, 2024 Second Amended Order filed in *In re: Administrative Orders of the Chief Judge*, Case No. 3:21-mc-1-TJC, Doc. No. 157, at 4 (authorizing a Magistrate Judge to conduct proceedings and issue an order as to "[a] psychiatric or psychological report to determine competency under 18 U.S.C. § 4241 and a competency hearing, except that a magistrate judge must file a report and recommendation concerning a defendant's competency if the parties dispute the defendants' competency.).

In addition, the United States expressed concern as to whether Defendant Evan Edwards was required to be present in order for the undersigned to make this finding. However, the undersigned has not located any binding authority requiring his presence under the circumstances of today's status hearing, and Defendant Evan Edwards' counsel expressly waived any right that may exist requiring Defendant Evan Edwards' presence.

Pursuant to 18 U.S.C. § 4241(d), once such a finding is made, the next step is to determine whether the provisions of 18 U.S.C. §§ 4246 and/or 4248 apply. The parties agree that 18 U.S.C. § 4248, which addresses civil commitment of a sexually dangerous person, do not apply in this case. With respect to 18 U.S.C. § 4246, while the parties agreed during today's status conference that they do not wish to pursue § 4246 proceedings, it is unclear at this time whether such proceedings can be waived, and the undersigned does not have the authority to make that conclusive determination. The undersigned will instead issue a separate report and recommendation on that issue in due course. *Cf., United States v. Ferguson*, No. 04-cr-14041-01-DMM/WM, 2020 WL 3481430, at *3-4 (S.D. Fla. June 26, 2020) (order by United States Magistrate Judge finding Defendant incompetent and that his competency cannot be restored and ordering further briefing as to next steps in the case).

The last issue the undersigned addressed with the parties at today's status conference was the question of Defendant Evan Edwards' continued detention. The United States originally agreed to pretrial release, *see* Doc. Nos. 99, 102, and United States Magistrate Judge Embry J. Kidd released Defendant Evan Edwards on pretrial conditions, effective September 12, 2023. Doc. Nos. 112-114. However, on May 20, 2024, the undersigned revoked Defendant Evan Edwards' pretrial release, primarily due his and his third-party custodian Mary Jane

Edwards' repeated failure to comply with various Court directives. Doc. No. 190; *see also* Doc. Nos. 154, 166-167, 175, 177.

Given that Defendant Evan Edwards has now been found incompetent and not capable of restoration in the foreseeable future, the parties agree that pretrial release is again warranted. The undersigned engaged in extensive discussion with counsel for Defendant Evan Edwards with respect to an appropriate release plan, and at the request of the undersigned, counsel has now filed a notice regarding same. Doc. No. 236. Upon consideration of that discussion and the notice, and with the United States' agreement, the undersigned **ORDERS** Defendant Evan Edwards to be released on the same conditions of pretrial release established by Magistrate Judge Kidd (Doc. No. 114), with one addition. Both Mary Jane Edwards and Joy Edwards are **APPOINTED** third-party custodians of Defendant Evan Edwards, and they both shall ensure that Defendant Evan Edwards is supervised in accordance with all conditions of release, that he shall appear at all court proceedings (including any required evaluations), and that they will notify the court immediately if any conditions of release are violated. All other conditions of release remain in full force and effect. Doc. No. 114.

The United States Marshals Service ("USMS") is **DIRECTED** to forthwith transport Defendant Evan Edwards from FMC Devens to the United States Courthouse for the Middle District of Florida, Orlando Division, where Defendant

Evan Edwards' third-party custodians will receive custody of him and transport him to their residence. The deadline for the USMS to transport Defendant Evan Edwards to the Middle District of Florida is **Friday, November 22, 2024**. The USMS will coordinate with Defendant Evan Edwards' counsel so that the third-party custodians will be at the courthouse with appropriate transport when Defendant Evan Edwards arrives in this District.

DONE and **ORDERED** in Orlando, Florida on November 1, 2024.



LESLIE HOFFMAN PRICE
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:

United States Marshal
United States Attorney
Counsel for Defendant