

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF KANSAS

UNITED STATES OF AMERICA,

Plaintiff,

Vs.

No. 96-40066-01-SAC

DOUGLAS ALAN KENNEDY,

Defendant.

ORDER

The case comes before the court on the defendant's motion for psychiatric evaluation pursuant to Fed. R. Crim. P. 12.2(c)(1)(A) which authorizes a court to order a defendant to submit to a competency examination under 18 U.S.C. § 4241. (Dk. 59). In supervised-release revocation proceedings, courts have followed the procedures in § 4241 to order evaluations and to determine competency. *See United States v. Wetzel-Sanders*, No. 02-40059-01-RDR, slip op. (D. Kan. Dec. 13, 2004); *United States v. Avery*, 328 F. Supp. 2d 1269,1271-72 (M.D. Ala. 2004) (and cases cited therein). A hearing to determine the defendant's mental competency is to be held if there "is reasonable cause to believe that the defendant may presently be suffering from a mental disease or defect rendering him 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.” 18 U.S.C. § 4241(a). Before the hearing, the court may order a psychiatric examination of the defendant and have the report filed as part of the record. 18 U.S.C. § 4241(b).

Based on observations and conversations, counsel for the defendant believes the defendant may be suffering from a mental defect which prevents him from assisting in his defense. The government does not oppose the defendant’s motion for a psychiatric evaluation. The court finds that defense counsel’s observations and opinions provide reasonable cause to believe the defendant may presently be suffering from a mental defect rendering him mentally incompetent to participate in the revocation proceedings.

IT IS THEREFORE ORDERED that pursuant to 18 U.S.C. § 4241, the defendant shall submit to a psychiatric examination and evaluation by the appropriate Federal Medical Center designated by the United States Bureau of Prisons and the report from the same shall be filed with the court pursuant to 18 U.S.C. § 4247(b) and (c);

IT IS FURTHER ORDERED that the United States Marshal shall transport the defendant to the Medical Center designated by the Bureau of Prisons;

IT IS FURTHER ORDERED that the examination and evaluation

reports shall be forwarded in writing to:

Hon. Sam A. Crow
430 United States Courthouse
444 S.E. Quincy
Topeka, KS 66683

Clerk of the District Court
490 United States Courthouse
444 S.E. Quincy
Topeka, KS 66683

Jason Coody, Assistant U.S. Attorney
290 United States Courthouse
444 S.E. Quincy
Topeka, KS 66683

James G. Chappas
1610 S.W. Topeka Blvd.
Topeka, KS 66612

Dated this 5th day of October, 2005, Topeka, Kansas.

s/ Sam A. Crow _____
Sam A. Crow, U.S. District Senior Judge