

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.) No. 08-10043-WEB
)
 CHACE A. CECIL,)
)
 Defendant.)
 _____)

Memorandum and Order

This matter came before the court on January 30, 2009 for a competency hearing. The court orally ruled at the hearing that the defendant is now competent to stand trial. This written memorandum will supplement the court's oral ruling.

On February 7, 2008, the defendant Chace A. Cecil was charged by way of Information with one count of unlawful possession of matters depicting images of minors engaging in sexually explicit conduct, in violation of 18 U.S.C. § 2252(a)(4)(B), and one count of forfeiture of computer-related items pursuant to 18 U.S.C. § 2253. At the start of his scheduled arraignment hearing on March 10, 2008, the Magistrate Judge granted the Government's motion to have the defendant sent for a psychological evaluation. Doc. 12. On July 23, 2008, after an evaluation was completed, the court found that the defendant was not competent to stand trial and it committed him to the custody of the Attorney General for treatment pursuant to 18 U.S.C. § 4241(d). Doc. 14.

On December 22, 2008, the court received a Certificate of Restoration of Competency to Stand Trial from the warden of the facility where the defendant was being treated. Doc. 15. The Certificate was accompanied by a forensic evaluation, which was signed on December 17, 2008. *Id.* The opinion of the examiners was that the defendant is able to understand the nature and consequences of the proceedings against him and to assist in his own defense. Moreover, although the defendant was suffering from a mental disease or defect at the time of the alleged offense, the examiners are of the opinion that the defendant was able to appreciate the nature and

quality or wrongfulness of his actions.

At the competency hearing of January 30, 2009, the defendant was present in person and represented by counsel. Neither the defendant nor the Government had any additional evidence to present to the court. As such, and after reviewing the report of the examiners, the court determined that the defendant was able to understand the nature and consequences of the proceedings, and to assist properly in his defense. Accordingly, the court finds that he is now competent to stand trial.

Pursuant to 18 U.S.C. § 4243(e), the court orders that the defendant be discharged from the federal medical facility where he has been treated. As such, the defendant is now subject to the provisions of Chapter 207 of Title 18 concerning release and detention. Magistrate Judge Bostwick will address arraignment and detention matters; counsel are directed to contact his chambers to make such arrangements. Pursuant to 18 U.S.C. § 3142(f), the court orders that the defendant be temporarily committed to the custody of the U.S. Marshals pending the detention hearing.

IT IS SO ORDERED this 2nd Day of February, 2009, at Wichita, Ks.

s/Wesley E. Brown
Wesley E. Brown
U.S. Senior District Judge