

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 12-CR-20131-JWL

BRADLEY KIELIAN,

Defendant.

ORDER

The defendant, Bradley Kielian, was detained on February 19, 2020.¹ At his initial appearance, with the parties' agreement, the court concluded defendant was in need of a medical evaluation to determine competency and directed counsel to confer and submit a proposed order for the evaluation.² On March 3, 2020, per defense counsel's suggestion, the court ordered Dr. James Reynolds to have a professional visit with defendant on March 7, 2020.³ Shortly thereafter, the COVID-19 pandemic began, causing numerous delays in this and other matters. On April 23, 2020, defendant filed an unopposed motion to continue

¹ ECF No. 128.

² *Id.*

³ ECF No. 133.

the competency hearing, which had been set for April 29, 2020, for another 30 days.⁴ The court granted the motion and rescheduled the hearing for May 27, 2020.⁵

On May 20, 2020, defense counsel filed another unopposed motion for a psychiatric or psychological examination regarding competency, based on his belief defendant “may be currently suffering from a mental disease or defect rendering him mentally incompetent.”⁶ Defense counsel cited his own difficulties in communicating with defendant.⁷ The court granted the motion and ordered defendant to (1) submit to mental examination as provided by 18 U.S.C. § 4241(b) and 18 U.S.C. § 4247(c); (2) be committed to the custody of the Attorney General, under the provisions of 18 U.S.C. § 4241(b), for placement in a suitable facility designated as a forensic evaluation site; (3) be held in the temporary custody of the U.S. Marshals Service; and (4) be delivered by the Service to the designated site as directed by the Attorney General.⁸ The court postponed the competency hearing indefinitely, intending to reschedule once the court-ordered evaluation was completed.⁹

⁴ ECF No. 138.

⁵ ECF No. 140.

⁶ ECF No. 141.

⁷ *Id.*

⁸ ECF No. 142.

⁹ *Id.*

No updates have been filed regarding the status of the evaluation since May. On August 4, 2020, the U.S. Marshals Service informed the court, by e-mail, that defendant was originally designated to Englewood Federal Correctional Institution for his mental examination, but ultimately there was no one available there to conduct the study. Defendant was re-designated to Butner Federal Correctional Institution, where he was scheduled to arrive on August 5, 2020. Once he has been quarantined for the required 14 days due to COVID-19 guidelines, he will presumably be able to participate in the mental examination.

Under 18 U.S.C. § 4241(b), the court may order the defendant to be examined under procedures ordered by the court when there is reasonable cause to believe the defendant may presently be suffering from a mental disease or defect rendering him mentally incompetent to the extent he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense. Pursuant to this statute and the court's prior orders (ECF Nos. 133 and 142), a psychological examination shall be conducted and a psychological report shall be filed with the court pursuant to 18 U.S.C. § 4241(b) and 18 U.S.C. § 4247(b) and (c). Defendant is hereby committed to be examined for a reasonable period of time, not to exceed thirty days, at Butner Federal Correctional Institution, in accordance with 18 U.S.C. § 4247(b). The examination shall be completed by **September 9, 2020**. A report shall thereafter be filed with the court and served upon counsel for the parties, all in accordance with the requirements of 18 U.S.C. § 4247(b) and (c), at the following addresses:

The Honorable John W. Lungstrum

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IT IS SO ORDERED.

Dated August 10, 2020, at Kansas City, Kansas.

s/ James P. O'Hara
James P. O'Hara
U.S. Magistrate Judge