

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 18-10064-JWB

JUAN CARLOS CARMONA,

Defendant.

MEMORANDUM AND ORDER

This matter came before the court on December 3, 2018, for a hearing on Defendant's "Motion to Continue to Determine Competency." (Doc. 50.) The motion seeks an order for a mental examination of Defendant and a hearing to determine Defendant's competence to stand trial. (*Id.* at 3.) For the reasons stated by the court at the hearing and, as supplemented below, the motion is GRANTED.

Defense counsel stated in the above-mentioned motion that "recent events lead counsel to question Mr. Carmona's competency to assist in his defense." (Doc. 50 at 2.) Counsel believes Defendant's "mental health has detrimentally impacted his ability to assist" in his own defense and that a forensic psychologist who recently evaluated Defendant "agrees that further evaluation is necessary to determine whether Mr. Carmona is competent to stand trial." (*Id.* at 2-3.)

The court, without objection from the government, conducted an ex parte hearing with defense counsel and Defendant to determine the nature of the factual basis for questioning Defendant's competence. Based on this inquiry, the court finds there is reasonable cause to believe Defendant may be suffering from a mental disease or defect that may make him unable to assist

properly in his defense.¹ As such, the court will grant Defendant's motion for a hearing to determine Defendant's mental competence. 18 U.S.C. § 4241(a). Prior to the hearing, the court will further order that a psychiatric or psychological examination of Defendant be conducted. (*Id.*)

Defense counsel has identified a local psychiatrist who can perform a one-day examination of Defendant on December 19, 2018. (*Id.* at 3.) The court will grant Defendant's request to designate this examiner for the purpose of conducting a mental competency examination pursuant to § 4241(a). The court also finds it appropriate to order an examination of Defendant by a licensed or certified psychologist or psychiatrist with the Bureau of Prisons ("BOP"), as the BOP is thoroughly familiar with this process, the BOP can conduct a more thorough examination, and such an examination is advisable given conflicting indications as to whether Defendant is unable to properly assist in his defense. (*Id.* § 4247(b) (court may designate more than one examiner.)

IT IS THEREFORE ORDERED this 4th day of December, 2018, that Defendant's Motion for Continuance to Determine Competency (Doc. 50) is GRANTED. The court designates the psychiatrist selected by Defendant for the purpose of conducting a mental competency examination of Defendant on December 19, 2018, or such other date as agreed to by the parties. The court further designates a licensed or certified psychologist or psychiatrist with the BOP to conduct a mental competency examination of Defendant pursuant to § 4241(a). The examiners shall prepare and file reports pursuant to § 4247(b), with the reports to include the matters set forth in § 4247(b)(1)-(b)(4)(A).

¹ The court sees no basis at this point to believe Defendant is unable to understand the nature and consequences of the proceedings against him.

Defendant is committed for a reasonable period, not to exceed thirty days, to the custody of the Attorney General for placement in a suitable facility for purposes of an examination.

IT IS SO ORDERED this 4th day of December, 2018, at Wichita, KS.

s/ John W. Broomes
JOHN W. BROOMES
UNITED STATES DISTRICT JUDGE