UNITED STATES DISTRICT COURT

DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA, Case No. 24-cr-118 (JRT/LIB)

Plaintiff,

v. **ORDER**

JENNIFER MARIE STATELY,

Defendant.

This matter comes before the undersigned United States Magistrate Judge pursuant to a general assignment, made in accordance with the provisions of 28 U.S.C. § 636, and upon the Government’s Motion for Mental Health Examination of the Defendant. [Docket No. 58].

On December 5, 2024, Defendant, Jennifer Marie Stately, filed her “Notice of Insanity Defense” pursuant to Fed. R. Crim P. 12.2(a) in which she declared that she intends to rely upon the defense of insanity at trial. (Def.’s Notice [Docket No. 56]).[[1]](#footnote-1) In response, the Government now moves for a mental examination of Defendant, as defined under 18 U.S.C. § 4247(b), at a suitable facility. The Government also requests that the Court order a report to be prepared under 18 U.S.C. § 4247(c)(4)(B) that opines on whether Defendant “was insane at the time of the offense charged.” (See Gov’t’s Mot. [Docket No. 58] at 2). Defendant filed a reply to the Government’s motion stating she had no objection the “Government’s request for an examination, save its location” and requested that the evaluation take place locally. (Def.’s Reply [Docket No. 59]).[[2]](#footnote-2) Specifically, Defendant requests that the examination take place at the Sherburne County Adult Correction Facility where she is currently housed as opposed to a facility designated by the Bureau of Prisons (“BOP”). (Id.).

Under 18 U.S.C. § 4242(a), when a criminal defendant files a notice that she intends to rely on the defense of insanity, the Court shall order that a psychiatric or psychological examination of the defendant be conducted upon motion of the Government. 18 U.S.C. § 4247(b) specifies how such examinations are to be conducted. For examinations pursuant to an order under Section 4242, “the court may commit the person to be examined for a reasonable period, but not to exceed forty-five days, to the custody of the Attorney General for placement in a suitable facility.” 18 U.S.C. § 4247(b) (emphasis added). Defendant argues that her request for an examination at a facility of her choosing as inherently authorized by the statute as the word ‘may’ inserted into Section 4247 affords discretion. (Def.’s Reply [Docket No. 59]).

While the issue of location of confinement for psychological examination is infrequently litigation, the Eighth Circuit has held that “[a]lthough § 4247(b) uses the word ‘may’ when describing a district court’s ability to commit a person to the BOP for an inpatient competency evaluation, the statute does not grant a district court unfettered discretion or order such a commitment.” United States v. Neal, 679 F.3d 737, 740–41 (8th Cir. 2012). Instead, the “statute’s use of the word ‘may’ merely reflects the district court’s choice between an inpatient commitment and an outpatient evaluation.” Id. at 741–42; accord In re Newchurch, 807 F.2d 404, 4010 (5th Cir. 1986) (“For purpose of the examination, the court is empowered to commit the defendant . . . to the custody of the Attorney General. . . . If, however, the court believes that the defendant’s examination can be conducted on an outpatient basis, there need not be a commitment under this provision.”) (alteration in original) (quoting S. Rep. No. 225, 98th Cong., 2d Sess. 235, reprinted in 1984 U.S. Code Cong. & Ad. News 3417); see also United States v. Song, 530 F.App’x 255, 259 (4th Cir. 2013); United States v. Deters, 143 F.3d 577, 582–84 (10th Cir. 1998).

As noted above, Defendant does not oppose the underlying examination, but instead requests that the location of the examination be at a state facility where Defendant currently resides.[[3]](#footnote-3) In Defendant’s request, she does not seek an outpatient evaluation, but rather, seeks and Order from the Court directing the BOP to conduct its inpatient evaluation of Defendant at a location of her choosing.

Title 18 U.S.C. § 4242 provides that upon a defendant filing a notice that she “intends to rely on the defense of insanity, the court, upon motion of the attorney for the Government, shall order that a psychiatric or psychological examination of the defendant be conducted, and that a psychiatric or psychological report be filed with the court, pursuant to the provisions of section 4247(b) and (c).” And while Section 4247 provides that “[u]nless impracticable, the psychiatric or psychological examination shall be conducted in a suitable facility closest to the court” the statute does not give Defendant unilateral discretion to designate her current place of residence in a county correctional facility as a “suitable facility” for the purposes of conducting Defendant’s agreed-upon inpatient evaluation. See 18 USC §§ 4247(a)(2) (defining “suitable facility”) 4247(b). Therefore, pursuant to 18 U.S.C. § 4242, the Court orders that a psychiatric or psychological examination of Defendant be conducted regarding her insanity defense, and a psychiatric or psychological report be filed with the Court, pursuant to the provisions of section 4247(b) and (c).

Accordingly, for the foregoing reasons, and based on all of the files, records, and proceedings herein, and **IT IS HEREBY ORDERED** that:

1. The Government’s Motion for Mental Health Examination of Defendant, [Docket No. 58], is **GRANTED**, as set forth herein;
2. Defendant shall be committed to the custody of the Attorney General for placement in a suitable Federal Medical Center to be examined for competency for a period not to exceed forty-five (45) days, with leave for the director of that Federal Medical Center to apply for a reasonable extension of time not to exceed thirty (30) days pursuant to 18 U.S.C. § 4247(b);
3. The United States Marshal’s Service shall transport Defendant to that Federal Medical Center as soon as is practicable;
4. The Federal Medical Center shall conduct a psychiatric or psychological examination of Defendant regarding his insanity defense within the meaning of 18 U.S.C. § 4242; and
5. The Federal Medical Center shall prepare a psychiatric or psychological report containing the information required by 18 U.S.C. § 4242(c) and file a copy of said report with this Court, with copies provided to the Assistant United States Attorney and to defense counsel, pursuant to 18 U.S.C. § 4247(c).
6. Pursuant to the Speedy Trial Act provisions of 18 U.S.C. §§ 3161(h)(1)(A) and 3161(h)(7)(A), the time required for trial of the Defendant shall be tolled from the date of the instant Order until the results of said mental health examination are received by the Court.

Dated: December \_\_, 2024 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Hon. Leo I. Brisbois

U.S. MAGISTRATE JUDGE

1. As a predicate for such notice, Defendant also filed a preliminary “Criminal Responsibility Evaluation” dated December 3, 2024, by Jennifer Service, MD. (See Psychiatric Report [Docket No. 57]). This multi-day examination took place at the Sherburne County Jail with a primary in-person evaluation taking place on September 27, 2024, with follow up interviews occurring on November 1, 2024, and December 2, 2024. (Id. at 2). [↑](#footnote-ref-1)
2. Defendant represents that after discussions with the Government’s counsel, the probable location for Defendant’s psychiatric or psychological examination by the Bureau of Prison’s would be at the FMC Butner in North Carolina. (Def.’s Reply [Docket No. 59] at ¶ 4). Defendant requests that the examination be conducted instead at the Sherburne County Adult Corrections Facility, in Elk River, MN. (Id. at ¶ 5). [↑](#footnote-ref-2)
3. Indeed, Defendant does not raise any objection based on due process requirements concerning the inpatient evaluation of Defendant, and in a letter sent to the Court, the Government represents that both parties have met and conferred regarding the above matter and have both agreed that a hearing on the motion is not necessary. [↑](#footnote-ref-3)