

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

UNITED STATES OF AMERICA,            )  
  )  
  Plaintiff,                    )  
  )  
v.    )  
  )  
DENNY RAY HARDIN,                    )  
  )  
  Defendant.                    )

Case No. 10-00131-01-CR-W-FJG

**MOTION FOR DETERMINATION OF COMPETENCY**

COMES NOW the defendant, Denny Ray Hardin, by his counsel, Anita L. Burns, Assistant Federal Public Defender for the Western District of Missouri, in accordance with Rule 47, Fed. R. Crim. P., and moves this Court, pursuant to 18 U.S.C. § 4241, for a judicial determination of mental competency. Accordingly, counsel moves this Court to order a psychiatric or psychological examination of defendant and that a psychiatric or psychological report be filed with the Court. This psychiatric or psychological report shall advise the Court as to the defendant's mental ability to understand the proceedings presently pending against him and to properly assist his counsel in his own defense.

**SUGGESTIONS IN SUPPORT**

1. On May 5, 2010, defendant was charged by Indictment with eleven counts of creating fictitious obligations in violation of 18 U.S.C. §514 and §2, with three counts of mail fraud in violation of 18 U.S.C. §1341 and §2, and with five counts of mail fraud in violation of 18 U.S.C. §1341 and §2.

2. Counsel from the Federal Public Defender Office has conferred with Mr. Hardin in person and based on that meeting and based on Mr. Herring's statements made in Court during his arraignment, seeks a psychiatric or psychological evaluation of Mr. Herring.

3. Counsel has reason to believe that the defendant is suffering from a mental disease or defect which renders the defendant incapable of understanding the pending charges or assisting in his defense. Mr. Hardin was previously diagnosed with delusional disorder while incarcerated in the Missouri Department of Corrections.

4. Based on the conduct of the defendant during the interview with counsel, his statements made in Court during his arraignment, and his previous diagnosis, counsel requests this Court to order a mental examination of the defendant to determine his mental ability to understand the proceedings and to assist in his defense.

WHEREFORE, counsel moves this Court, pursuant to 18 U.S.C. § 4241 for a judicial determination of defendant's mental competency. Accordingly, counsel requests this Court to order a mental examination of defendant by at least one qualified psychiatrist or psychologist who shall prepare and submit a written report to this Court concerning the defendant's mental ability to understand the proceedings presently pending against him and to properly assist the undersigned in his defense.

Respectfully submitted,

/s/ Anita L. Burns  
ANITA L. BURNS  
Assistant Federal Public Defender  
818 Grand Avenue, Suite 300  
Kansas City, Missouri 64106  
(816) 471-8282  
COUNSEL FOR DEFENDANT

**CERTIFICATE OF SERVICE**

In accordance with Rule 49(a), (b) and (d), Fed. R. Crim. P., and Rule 5(b), Fed. R. Civ. P., it is hereby certified that one copy of the foregoing Motion was electronically filed and emailed mailed to Brian P. Casey, Assistant United States Attorney, Western District of Missouri, Counsel for Plaintiff, 400 E. 9<sup>th</sup> St., 5<sup>th</sup> Floor, Kansas City, Missouri 64106, this 13th day of May, 2010.

/s/ Anita L. Burns  
Anita L. Burns