

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

UNITED STATES OF AMERICA

v.

CASE NO: 2:18-cr-68-FtM-38MRM

JUAN CARLOS ALFARO GARCIA

ORDER¹

Before the Court is Defendant Juan Carlos Alfaro Garcia's Motion for Hearing to Determine Competency and Memorandum of Law ([Doc. 63](#)) and the Government's response ([Doc. 68](#)). This case is set for the March 2019 trial term.

Garcia moves the Court to decide his competency under [18 U.S.C. § 4241\(a\)](#). ([Doc. 63](#)). He was examined last month for his competency and overall psychological functioning. ([Doc. 66](#)). Because the evaluation found him not competent to proceed to trial, Garcia argues there is reasonable cause to believe that he suffers from a mental disease or defect that renders him incompetent to proceed to trial. ([Docs. 63; 66](#)). In response, the Government requests that Garcia be further evaluated under [18 U.S.C. § 4241\(b\)](#), in consideration of the provisions of section [18 U.S.C. § 4247\(b\)](#) and (c).

Section 4141(b) governs psychiatric or psychological evaluations and reports. It says, "[p]rior to the date of the [competency] hearing, the court may order that a psychiatric or psychological examination of the defendant be conducted, and that a

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psychiatric or psychological report be filed with the court, pursuant to the provisions of section 4247(b) and (c).” 18 U.S.C. § 4241(b). Pertinent here, a court may commit a defendant to the Attorney General’s custody to be placed in a suitable facility for the defendant to be examined for a period that does not exceed thirty days. *Id.* at § 4247(b). Here, based on the parties’ arguments and applicable law, the Court finds that Garcia needs an additional examination to decide if he is suffering from a mental disease or defect to render him incompetent to proceed to trial. The Court thus orders Garcia to undergo an additional psychiatric or psychological report and that a written report be filed.

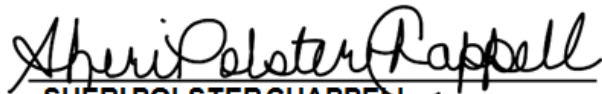
Accordingly, it is now **ORDERED**:

- (1) The Government’s request for Defendant Juan Carlos Alfaro Garcia to be evaluated under 18 U.S.C. § 4241(b), in consideration of the provisions of section 4247(b) and (c) is **GRANTED**.
- (2) Garcia is **DIRECTED** to be evaluated under § 4241(b), in consideration of the provisions of section 4247(b) and (c).
- (3) The United States Marshals Service is **DIRECTED** to transport Garcia to a federal facility with the capability of conducting such an evaluation. Unless impracticable, the examination shall be conducted in a facility closest to the Court. See 18 U.S.C. § 4247(b).
- (4) Garcia shall be examined for a reasonable period of time, not to exceed thirty days. See 18 U.S.C. § 4247(b).
- (5) A psychiatric or psychological report must be prepared, pursuant to the provisions of section 4247(b) and (c) and filed with the Court **under seal** within

fourteen (14) days from the completion of the examination. A copy of the report must be provided to counsel.

- (6) The psychiatric or psychological report must include the following information:
- a. Garcia's history and present symptoms;
 - b. a description of the psychiatric, psychological, and medical tests that were employed and their results;
 - c. the examiner's findings; and
 - d. the examiner's opinions as to diagnosis, prognosis, and whether Garcia is suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense.
- (7) The Department of Justice is responsible for payment of the services, if any, rendered in accordance with this Order.
- (8) The Court **RESERVES** ruling on Defendant Juan Carlos Alfaro Garcia's Motion for Hearing to Determine Competency ([Doc. 63](#)) until after completion of Garcia's additional evaluation.

DONE AND ORDERED in Fort Myers, Florida on this 21st day of February 2019.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: Counsel of Record
 United States Marshals Service