

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

UNITED STATES OF AMERICA,

v.

SHAWN MICHAEL SIMMERER,

Defendant.

Case No. 6:24-cr-53-RBD-RMN

REPORT AND RECOMMENDATION

This matter is before the Court on the issue of Defendant's mental competency. Previously, counsel for Defendant moved for appointment of an expert to evaluate Defendant's competency. Dkt. 70. After a hearing, the Court granted the motion, appointed an expert, and granted leave to the Government to retain its own expert to evaluate Defendant's competency. Dkt. 85. The experts have evaluated Defendant and prepared reports containing their opinions, each of which have been filed under seal.

On December 12, 2024, I held a hearing to determine if Defendant is presently 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, as required by 18 U.S.C. § 4241. The parties tendered their expert reports for the Court's consideration and represented that the experts, if they

were to be directed to testify, would provide testimony consistent with the contents of their reports. Based on my independent review of the reports, Defendant's concession that he is competent to proceed, and the absence of contrary evidence, I conclude that Defendant, Shawn Micheal Simmer, understands the nature and consequences of the proceedings against him or to assist properly in his defense.

Accordingly, I respectfully **RECOMMEND** that the Court find the Defendant is competent to proceed because he is not 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.

NOTICE TO PARTIES

A party may file written objections to this Report's proposed findings and recommendations within fourteen days from the date the party is served with this Report. 28 U.S.C. § 636(b)(1)(C); *see also* Fed. R. Crim. P. 59. A party waives the right to challenge on appeal a finding of fact or conclusion of law adopted by the district judge if the party fails to object to that finding or conclusion. *See id.* § 636(b)(1); *see also* 11th Cir. R. 3-1.

ENTERED in Orlando, Florida, on December 12, 2024.



ROBERT M. NORWAY
United States Magistrate Judge

Copies furnished to:

Counsel of Record