

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

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 21-00238-01-CR-W-HFS
)	
MYRON J. TOOMBS,)	
)	
Defendant.)	

REPORT AND RECOMMENDATION

On September 30, 2021, counsel for Defendant Myron J. Toombs filed a motion pursuant to 18 U.S.C. § 4241 to determine Defendant’s mental competency to stand trial. Doc. 12. On October 6, 2021, the Court granted the motion. Doc. 13. After the initial psychiatric report was received (Doc. 19), the Court conducted a competency hearing on January 7, 2022. Docs. 22-23. Shortly thereafter, the undersigned issued a report, recommending the District Court find Defendant was incompetent to understand the nature and consequences of the proceeding against him and assist in his defense. Doc. 24 at 2. The undersigned also recommended Defendant be committed to the Attorney General’s custody for hospitalization and treatment in a suitable facility to determine whether there was a substantial probability that, in the foreseeable future, Defendant would attain the capacity to permit the trial to proceed. *Id.* Neither party objected to the Report and Recommendation.

On February 17, 2022, District Judge Howard F. Sachs adopted the Report and Recommendation. Doc. 25. Judge Sachs remanded Defendant “to the custody of the Attorney General for hospitalization and treatment in a suitable facility” for a “period of time up to 120 days

from the date of this order to determine whether there is a substantial likelihood that in the foreseeable future the defendant will attain the capacity to permit the trial to proceed.” *Id.* at 2-3.

Pursuant to 18 U.S.C. § 4241(d)(1), Defendant was hospitalized for treatment to determine whether there is a substantial probability he will attain the capacity to permit the trial to proceed in the foreseeable future. On February 7, 2023, a forensic evaluation report was issued by Haley Wentowski, Psy.D. Doc. 26. Dr. Wentowski opined Defendant “is currently competent to proceed.” *Id.* at 17. Specifically, she noted Defendant is “not currently suffering from a mental disease or defect rendering him mentally incompetent to the extent he is unable to understand the nature and consequences of the proceedings against him or properly assist in his defense.” *Id.* According to the report, “[n]o short-term change in [Defendant’s] mental stability and ability to participate meaningfully in his defense is anticipated so long as Mr. Toombs continues to abstain from abusing alcohol and illicit substances.” *Id.* The report was accompanied by a Certificate of Restoration of Competency to Stand Trial, dated February 10, 2023, which was signed by David Paul, who is the warden for Federal Medical Center - Lexington. *Id.* at 19.

On March 9, 2023, the undersigned conducted a hearing pursuant to 18 U.S.C. §§ 4241(c)-(e) and 4247(d) to determine Defendant’s mental competency to stand trial. Doc. 29. At this hearing, both Government counsel and defense counsel confirmed receipt of the psychiatric report and the certificate of restoration. *Id.* The parties stipulated that the Court could consider Dr. Wentowski’s forensic evaluation as if she had appeared in person and testified under oath. *Id.* Neither party presented additional evidence or argument on the issue of restoration or current competency to proceed. *Id.*

Based on the record before the Court and the uncontroverted evidence to which the parties stipulate, including the findings of Dr. Wentowski, it is

RECOMMENDED that the District Court, after conducting its own independent review of the record, find Defendant Toombs's competency to stand trial has been restored, and Defendant is presently competent to understand the nature and consequence of the proceedings against him and to assist properly in his defense. At the competency hearing, Government counsel and defense counsel waived the filing of any objections to this Report and Recommendation and agree the issue of competency is ready for ruling by the District Judge.¹ *Id.*

DATE: March 10, 2023

/s/ W. Brian Gaddy
W. BRIAN GADDY
UNITED STATES MAGISTRATE JUDGE

¹ The parties also advised the Court they are in ongoing plea negotiations and intend to request an arraignment and change of plea hearing date from the District Court.