

United States Court of Appeals
For the Eighth Circuit

No. 22-3360

United States of America

Petitioner - Appellee

v.

Calvin Scott Wedington

Respondent - Appellant

Appeal from United States District Court
for the District of Minnesota

Submitted: October 3, 2023

Filed: October 6, 2023

[Unpublished]

Before LOKEN, SHEPHERD, and GRASZ, Circuit Judges.

PER CURIAM.

Federal prisoner Calvin Wedington appeals the district court's¹ order denying his most recent 18 U.S.C. § 4247(h) motion for discharge from his 2005 commitment under 18 U.S.C. § 4245.

Following a careful review, we conclude that ample evidence supported the district court's finding after a hearing that Wedington was in need of ongoing commitment. See 18 U.S.C. § 4245(d) (preponderance of the evidence standard for determination of mental illness and treatment need), § 4247(h) (discharge); United States v. Bean, 373 F.3d 877, 879 (8th Cir. 2004) (finding under § 4245 is reviewed for clear error); United States v. Frierson, 208 F.3d 282, 283 (1st Cir. 2000) (commitment under § 4245 continues until earlier of expiration of sentence, determination by director of medical facility that prisoner is no longer in need of hospitalization, or determination by court by preponderance of evidence after hearing upon motion by counsel for committed person that he should be discharged). Despite Wedington's improved symptoms and good behavior while medicated, the district court's denial of Wedington's motion to be discharged from commitment was supported by evidence, including the testimony of Wedington's psychologist at FMC Devens with first hand knowledge of Wedington's condition, that he had a history of decline upon stopping psychiatric medication, that he lacked insight into his mental illness, and that he would cease taking his schizophrenia and other medication if his commitment were lifted. Accordingly, we affirm the judgment, see 8th Cir. R. 47B, and we grant counsel's motion to withdraw.

¹The Honorable David S. Doty, United States District Judge for the District of Minnesota, adopting the report and recommendations of Honorable Becky R. Thorson, United States Magistrate Judge for the District of Minnesota, now retired.