

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 11-7728**

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UNITED STATES OF AMERICA,

Petitioner - Appellee,

v.

HERBERT OVERTON,

Respondent - Appellant.

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Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. W. Earl Britt, Senior District Judge. (5:11-hc-02183-BR)

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Submitted: August 21, 2012

Decided: August 23, 2012

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Before WILKINSON, DUNCAN, and THACKER, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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Stacey A. Phipps, STACY A. PHIPPS, Raleigh, North Carolina, for Appellant. Thomas G. Walker, United States Attorney, Jennifer P. May-Parker, David T. Huband, Assistant United States Attorneys, Raleigh, North Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Herbert Overton appeals the district court's order committing him to the custody of the Attorney General under 18 U.S.C. § 4246 (2006). Overton asserts that the district court erred in concluding that he posed a substantial risk of danger to others as a result of his mental disorder. Finding no error, we affirm.

After a hearing, the district court found by clear and convincing evidence that Overton "is presently suffering from a mental disease or defect as a result of which his release would create a substantial risk of bodily injury to another person or serious damage to property of another." 18 U.S.C. § 4246(d). Our review of the record leads us to conclude that the district court did not clearly err in finding that Overton met this standard. United States v. LeClair, 338 F.3d 882, 885 (8th Cir. 2003) (stating standard of review); see United States v. Robinson, 404 F.3d 850, 856 (4th Cir. 2005); see also United States v. Harvey, 532 F.3d 326, 336-37 (4th Cir. 2008) (stating that a finding is clearly erroneous "when, although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed") (internal quotation marks and citation omitted).

Accordingly, we affirm the order of the district court. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED