

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 07-3871

United States of America,

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Appellee,

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v.

* Appeal from the United States
* District Court for the
* Western District of Missouri.

Timothy Paden,

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* [UNPUBLISHED]

Appellant.

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Submitted: February 5, 2009

Filed: March 2, 2009

Before WOLLMAN, MURPHY, and MELLOY, Circuit Judges.

PER CURIAM.

Federal inmate Timothy Paden appeals the district court's¹ order committing him under 18 U.S.C. § 4245, which provides for the hospitalization of an imprisoned person suffering from a mental disease or defect, until he no longer needs treatment or his prison sentence expires, whichever occurs first. Following careful review, we conclude that the district court's section 4245 finding was supported by the unrefuted

¹The Honorable Richard E. Dorr, United States District Judge for the Western District of Missouri, adopting the report and recommendations of the Honorable James C. England, United States Magistrate Judge for the Western District of Missouri.

opinions of the mental health professionals at the United States Medical Center for Federal Prisoners in Springfield, Missouri, and defense counsel's separate examiner, and that the finding was not clearly erroneous, notwithstanding Paden's statement at his hearing that he was fine. See 18 U.S.C. § 4245(d) (determination of mental illness and treatment need, and burden of proof); United States v. Bean, 373 F.3d 877, 879 (8th Cir. 2004) (standard of review); United States v. Eckerson, 299 F.3d 913, 914-15 (8th Cir. 2002) (per curiam) (upholding commitment order based on opinion of prison hospital staff, despite inmate's denial of mental illness).

Accordingly, we affirm the judgment of the district court and grant counsel's motion to withdraw on condition that counsel inform appellant about the procedures for filing petitions for rehearing and for certiorari. We also deny appellant's motion for appointment of new counsel.
