

United States Court of Appeals
For the Eighth Circuit

No. 13-2921

United States of America

Plaintiff - Appellee

v.

Antoine Smith

Defendant - Appellant

Appeal from United States District Court
for the Western District of Missouri - Springfield

Submitted: January 7, 2014

Filed: January 10, 2014

[Unpublished]

Before MURPHY, SMITH, and SHEPHERD, Circuit Judges.

PER CURIAM.

Antoine Smith--who is serving a 180-month prison sentence imposed on a conspiracy conviction entered in a North Carolina federal court in 2004--appeals the

district court's¹ order committing him after a hearing under 18 U.S.C. § 4245, which provides for the hospitalization and treatment 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 the district court's finding that Smith was in need of commitment for mental-health treatment is supported by a preponderance of the evidence, and is not clearly erroneous. 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).

Accordingly, we affirm the judgment of the district court, see 8th Cir. R. 47B, and we grant counsel's motion to withdraw, subject to counsel informing appellant about procedures for seeking rehearing or filing a petition for certiorari.

¹The Honorable Fernando J. Gaitan, Jr., Chief Judge, United States District Court for the Western District of Missouri, adopting the report and recommendations of the Honorable David P. Rush, United States Magistrate Judge for the Western District of Missouri.