

United States Court of Appeals
For the Eighth Circuit

No. 19-3291

United States of America

Plaintiff - Appellee

v.

Richard Perales

Defendant - Appellant

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

Submitted: October 15, 2020

Filed: October 21, 2020

[Unpublished]

Before LOKEN, GRUENDER, and GRASZ, Circuit Judges.

PER CURIAM.

Richard Perales, who is civilly committed at the Federal Medical Center in Rochester, Minnesota, appeals after the district court¹ denied his pro se 18 U.S.C.

¹The Honorable M. Douglas Harpool, United States District Judge for the Western District of Missouri, adopting the report and recommendations of the

§ 4247(h) motion. He is represented by counsel on appeal, and counsel has moved to withdraw.

The district court concluded that Perales was not authorized to file a pro se § 4247(h) motion. *See* 18 U.S.C. § 4247(h) (stating that counsel or a guardian may move for a hearing to determine if a committed person should be discharged no sooner than 180 days after the court determination that a commitment should continue). Perales argues that he had a right to proceed pro se in a § 4247(h) action under the Sixth Amendment or 28 U.S.C. § 1654. We conclude that these arguments are foreclosed by our decision in *United States v. O’Laughlin*, 934 F.3d 840, 841 (8th Cir. 2019) (concluding that the prohibition on self-representation under § 4247(h) does not violate the Sixth Amendment or § 1654), *cert. denied*, 140 S. Ct. 2535 (2020). To the extent Perales contends the district court’s decision denied him due process, we hold that his due process rights have not been violated based on his inability to represent himself. *See United States v. LaFromboise*, 836 F.2d 1149, 1151-52 (8th Cir. 1998) (holding that 18 U.S.C. §§ 4246-4247 satisfy due process even though § 4247(h) does not permit an acquittee to represent himself). Accordingly, we grant counsel leave to withdraw from this appeal and affirm. *See* 8th Cir. R. 47B.

Honorable David P. Rush, United States Magistrate Judge for the Western District of Missouri.