

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE CALVIN SCOTT WEDINGTON

Civil Docket No. 17-mc-91084-LTS

ORDER

March 22, 2017

SOROKIN, D.J.

For the reasons set forth below, the Court denies the movant's request for appointment of counsel.

On March 21, 2017, Calvin Scott Wedington ("Wedington"), who is confined at FMC Devens in Ayer, Massachusetts, filed a motion for appointment of counsel. Citing 28 U.S.C. § 1915(e)(1) and 18 U.S.C. § 3006(A), Wedington asks that the Court appoint the Federal Defender in Massachusetts to represent him "on the 4247(H) that plaintiff has pending." Mot. at 1. He also notes at the end of the motion, "16-3850 Wedington v. USA 8th Cir Court of Appeals need SCOTUS writ." *Id.*

According to federal court records available through PACER (Public Access to Court Electronic Records), Wedington is civilly committed pursuant to 18 U.S.C. § 4245. *See United States v. Wedington*, C.A. No. 05-00767 (D. Minn.). On October 20, 2015, through appointed counsel, Wedington filed a motion under 18 U.S.C. § 4247(h) for a hearing to reconsider his commitment. *See id.* (Docket Entry No. 122). At the time, Wedington was confined at the Federal Medical Center in Rochester, Minnesota, where he had been receiving treatment since 2005 or earlier. *See id.* The district court granted the motion for a hearing, but, adopting the report and recommendation of the magistrate judge, ordered that Wedington remain committed.

See id. (Docket Entry No. 138¹). Wedington appealed the judgment of the district court. *See id.* (Docket Entry No. 143). The Eighth Circuit appointed new counsel in October 2016. *See United States v. Wedington*, App. No. 16-3850 (8th Cir. Oct. 5, 2016). The United States submitted its brief on February 15, 2017 and the appeal is still pending. *See id.*

In light of the pending appeal before the Eighth Circuit, in which Wedington is represented by appointed counsel, the Court denies his motion that the Federal Defender in Massachusetts be appointed to represent him. Any request for counsel in his appeal should be directed to the Eighth Circuit. Further, even though Wedington is no longer confined in the same jurisdiction as his appointed attorney, there is no reason why his attorney cannot continue to represent him.

Accordingly, the motion for counsel is DENIED and this matter shall be terminated. The Clerk shall send a courtesy copy of this order to Wedington's counsel in Minnesota.²

SO ORDERED.

/s/ Leo T. Sorokin
UNITED STATES DISTRICT JUDGE

¹ The Court does not have remote electronic access to this sealed document, but it is clear from Wedington's objections to the Report and Recommendation, *see id.* (Docket Entry No. 135), that the magistrate judge recommended that Wedington remain committed.

² James E. Ostgard, Esq., P.O. Box. 582536, Minneapolis, MN 55458-2536.