

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

United States of America,

Civ. No. 13-3159 (PAM/FLN)

Petitioner,

v.

ORDER

Polynice Wadner,

Respondent.

This matter is before the Court on the Report and Recommendation (“R&R”) of Magistrate Judge Franklin L. Noel dated February 28, 2014. The R&R, which followed a hearing to determine Respondent’s mental health, recommends that the Court grant the Government’s Petition for an Order under 18 U.S.C. § 4245 because (1) Respondent is suffering from a mental disease or defect; (2) he is in need of hospitalization in a suitable psychiatric facility; and (3) FMC-Rochester is a suitable psychiatric facility. Respondent refused to attend the hearing against the advice of counsel. Respondent filed a brief objection to the R&R claiming that he is not suffering from any mental illness and is not in need of psychiatric care.

According to statute, the Court must conduct a de novo review of any portion of the Magistrate Judge’s opinion to which specific objections are made. 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b); D. Minn. L.R. 72.2(b). Based on that de novo review, the Court adopts the R&R.

The record establishes beyond dispute that Respondent suffers from schizo affective

disorder, bipolar type, that he is unable to function in the general prison population, that he is a danger to himself because he refuses to take needed hypertension medication, and that FMC-Rochester has the staff and facilities required to care for him. Respondent's objection therefore is overruled.

Accordingly, **IT IS HEREBY ORDERED that:**

1. The R&R (Docket No. 11) is **ADOPTED**;
2. The Petition under 18 U.S.C. § 4245 (Docket No. 1) is **GRANTED**;
3. Respondent is committed to the custody of the Attorney General of the United States pursuant to 18 U.S.C. § 4245 for hospitalization and treatment until Respondent is no longer in need of such custody for care and treatment, or until the expiration of the sentence of imprisonment, whichever occurs earlier.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: March 6, 2014

s/Paul A. Magnuson
Paul A. Magnuson
United States District Court Judge