

Enter Name and Address for Attorney or Unrepresented Party

UNITED STATES DISTRICT COURT

DISTRICT OF UTAH

Enter Plaintiff's Name,

Plaintiff,

v.

Enter Defendant's Name,

Defendant.

**PROPOSED ORDER FOR AN
EXAMINATION UNDER 18 U.S.C.
§§ 4241 AND 4242**

Case No. Enter Case Number – Include
Judges' Initials

Enter District Judge Title and Name

Enter Magistrate Judge Title and Name –
Delete if N/A

This matter comes before the court on a party's or on the court's own Motion to Determine Competency. The court finds that there is reasonable cause to believe that the defendant, Enter Defendant's Name, may be suffering from a mental disease or defect rendering him/her mentally incompetent to the extent that he/she is unable to understand the nature and consequences of the proceedings against him/her or to assist properly in a defense. In addition, the defendant has filed notice under Fed. R. Crim. P. 12.2 of his/her intent to rely on a defense of insanity.

Accordingly, as provided in 18 U.S.C. §§ 4241, 4242, and 4247(c), the court finds it necessary to order that the defendant be examined to determine mental competency and that a

report be provided to the court concerning whether the defendant understands the nature and consequences of the proceedings against him/her or can assist properly in a defense, and was of unsound mind at the time of the offense.

THIS COURT FINDS AS FOLLOWS:

1. Factual matters were determined to establish reasonable cause as required by 18 U.S.C. § 4241(a);
2. Before setting a hearing to determine competency, under 18 U.S.C. §§ 4241(b) and 4242(a), a psychological and/or psychiatric examination of the defendant, **Enter Defendant's Name**, should be ordered;
3. Under 18 U.S.C. § 3161(h)(1)(F), up to ten days is excludable under the Speedy Trial Act for transportation to the designated facility; and
4. Under 18 U.S.C. § 3161(h)(1)(A), such time as is taken up by the examination may properly be deemed excludable under the Speedy Trial Act.

IT IS THEREFORE ORDERED:

5. Under 18 U.S.C. § 4247(b), that the defendant be committed to the custody of the Attorney General for such reasonable period as is necessary, but not to exceed forty-five (45) days from the date the defendant arrives at the institution designated for the evaluation. The director of the facility may apply for a reasonable extension, but not to exceed thirty (30) days.
6. That the U.S. Marshals Service is directed to transport the defendant, without unnecessary delay, as soon as practicable to the facility designated by the Attorney General, and shall return the defendant to a hearing, which shall be conducted under 18 U.S.C. § 4247(d), at a time to be set by further order of the court.
7. That such examinations referred to herein must be for the purpose of determining:

- a. Whether the defendant is suffering from a mental disease or defect rendering him/her mentally incompetent to understand the nature and consequences of the proceedings against him/her, or to assist properly in a defense; and
 - b. Whether the defendant is suffering from a mental disease or defect such that the defendant was of unsound mind at the time of the offense charged.
- 8. That the examination be conducted by a licensed or certified psychiatrist as required by 18 U.S.C. § 4247, or a Bureau of Prisons' licensed or certified clinical psychologist.
- 9. That upon completion of the examination, the examiner(s) prepare a full report, which includes all the following as required by 18 U.S.C. § 4247(c):
 - a. The defendant's history and present symptoms;
 - b. A description of the psychiatric, psychological, and medical tests that were employed and the results;
 - c. The examiner(s)' findings;
 - d. The examiner(s)' opinion as to the diagnosis and the prognosis;
 - e. Whether the defendant is suffering from a mental disease or defect rendering him/her mentally incompetent to understand the nature and consequences of the proceedings against him/her, or to assist properly in a defense, as defined in 18 U.S.C. § 4241(a); and
 - f. Whether the defendant is suffering from a mental disease or defect such that the defendant was of unsound mind at the time of the offense charged, as defined in 18 U.S.C. § 4242(a).

10. That the report be filed with this court, under seal, and copies provided to counsel for the defendant, **Enter Name of Defense Attorney**, and the Assistant United States Attorney, **Enter Name of AUSA**, as provided in 18 U.S.C. § 4247(c).

11. That the Clerk of the U.S. District Court is directed to provide notice of this order to the U.S. Marshals Service.

IT IS SO ORDERED.

DATED this **Enter Number for the Day** day of **Enter the Month**, **Enter Year**.

BY THE COURT:

**Enter Name and Title of Judge –
Add Certificate of Service, if needed**