

State of Minnesota

District Court

County of Hennepin

Fourth Judicial District

State of Minnesota,
Plaintiff,Judge Lisa K. Janzen
Case Type: Criminal**ORDER**

v.

Marval Barnes,
Defendant.Case No. 27-CR-21-8856;
27-CR-21-11758; 27-CR-21-6229;
27-CR-21-722; 27-CR-21-8613;
27-CR-21-8643**FINDINGS OF FACT**

1. Defendant (date of birth 12/17/79) was charged in MNCIS file 27-CR-21-8856 with two counts of Fourth Degree Assault (Felony) arising from an incident alleged to have occurred on 5/6/21; in MNCIS file 27-CR-21-11758 with Fourth Degree Assault (Felony) arising from an incident alleged to have occurred on 5/14/21; in MNCIS file 27-CR-21-6229 with First Degree Damage to Property (Felony) arising from an incident alleged to have occurred on 2/25/21; in MNCIS file 27-CR-21-722 with Trespass (Gross Misdemeanor) arising from an incident alleged to have occurred on 1/10/21; in MNCIS file 27-CR-21-8613 with First Degree Damage to Property (Felony) arising from an incident alleged to have occurred on 4/29/21; and in MNCIS file 27-CR-21-8643 with Trespass (Gross Misdemeanor) arising from an incident alleged to have occurred on 5/4/21. On 5/10/21, Judge Daniel Moreno found probable cause to believe that the felony charges were committed and that Defendant committed them for Rule 20 purposes.
2. On 5/10/21, Judge Daniel Moreno ordered that Defendant undergo an evaluation to assess Defendant's competency to proceed in this matter pursuant to Minn.R.Crim.P. 20.01.

3. Dr. Bruce Renken, Ph.D., L.P., for Psychological Services of Hennepin County District Court, reviewed Defendant's records, interviewed Defendant, and filed a written report with this Court.
4. Dr. Bruce Renken, Ph.D., L.P., for Psychological Services of Hennepin County District Court, opined that Defendant, due to mental illness or cognitive impairment, lacks the ability to rationally consult with counsel; or lacks the ability to understand the proceedings or participate in the defense. This opinion was uncontested by either party.
5. On 5/18/21, the Defendant appeared in custody with counsel before the Court and Judge Gina Brandt found Defendant incompetent to stand trial and ordered the criminal proceedings in this matter be suspended until Defendant is restored to competency to proceed. Judge Gina Brandt ordered the Hennepin County Prepetition Screening Program to conduct prepetition screening and Defendant remained in custody subject to conditions issued on 5/10/21.
6. On 6/15/21, Judge Phil Carruthers of Hennepin County District Court issued an Order for Commitment as a Person Who is Mentally Ill (Rule 20) in MNCIS Case No. 27-MH-PR-21-638; the Defendant was civilly committed to the Commissioner of Human Services.
7. On 6/21/21, the Defendant was admitted to AMRTC.
8. On 8/24/21 a Notification of Reduction in Custody was filed into this criminal case, noting a Provisional Discharge to Risen Care-Adult Foster Care facility to go into effect on or after 8/30/21 as the Defendant was determined to no longer require in-patient level of care as of 8/24/21.
9. Defendant remains incompetent and the criminal case remains suspended pursuant to Minn.R.Crim.P. 20.01, Subd. 6(b).
10. If the Criminal Court Judge denied the request to provisionally discharge the defendant to Risen Care, the defendant would be released to the jail on the previously ordered bail.

11. The Hennepin County Jail does not provide competency restoration treatment or therapy and is not able to administer *Jarvis* orders.
12. If the defendant was provisionally discharged to the jail, the court would have to make the impossible decision as to whether to keep the incompetent defendant in the jail not receiving treatment with a suspended criminal case, or, to release the defendant to the street.
13. Given the options, Judge Peter Cahill approved the request to provisionally discharge Defendant and amended bail.

ANALYSIS

There is no case directly on point in Minnesota as to whether an incompetent defendant, whose criminal case has been suspended, can be held in the jail awaiting restoration to competency while not receiving competency restoration treatment at said jail. In dealing with similar issues, courts around the country have held that “incompetent criminal defendants – as pretrial detainees – have a liberty interest in being free from incarceration absent a criminal conviction.” *Goodman v. Utah Department of Human Services*, 180 F.Supp.3d 998, 1009 (D. Utah 2016); that the “Constitutional questions pertaining to the pretrial confinement of incompetent criminal defendants are analyzed under the due process clause of the Fourteenth Amendment.” *State v. Hand*, 429 P.3d 502 (Wash. 2018); and that the relevant question is whether the nature and duration of said detention, “is reasonably related to the purpose for which he was committed.” *Id.* (citing *Jackson v. Indiana*, 406 U.S. 715, 738, 92 S.Ct. 1845, 32 L.Ed.2d 435 (1972)).

In *Jackson*, the court held that:

a person charged by a State with a criminal offense who is committed solely on account of his incapacity to proceed to trial cannot be held more than the reasonable period of time necessary to determine whether there is a substantial probability that he will attain that capacity in the foreseeable future. If it is determined that this is not the case, then the State must either institute the customary civil commitment proceeding that would be required to commit indefinitely any other citizen, or release the defendant.

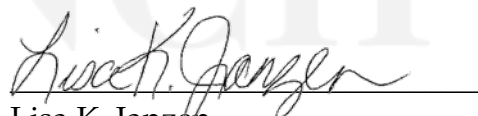
Furthermore, even if it is determined that the defendant probably soon will be able to stand trial, his continued commitment must be justified by progress toward that goal.

406 U.S. 715, 738, 92 S.Ct. 1845, 32 L.Ed.2d 435 (1972). Similarly, in *United States v. Jackson*, 306 F.Supp. 4 (N.D.Cal. 1969), the court held that the accused, who was incompetent to stand trial because of serious mental illness, that was not likely to be cured in foreseeable future, and who had already spent over a year and a half in federal hospital must be discharged from federal custody and responsibility for accused should transfer to state. The underlying tone in all of these decisions is the general understanding as stated in *Cook v. Ciccone*, 312 F.Supp. 822 (W.D.Mo. 1970), that "Such consideration is dictated by the inherent unfairness and substantial injustice in keeping an unconvicted person in federal custody to await trial where it is plainly evident his mental condition will not permit trial within a reasonable period of time." 312 F.Supp. at 824.

ORDER

1. Defendant is released in the criminal case under the conditions set forth in the amended conditional release order.
2. Defendant is ordered to cooperate with his civil commitment including following all treatment recommendations and appearing at all court appearances in the civil and criminal cases.
3. DHS shall continue to submit a written reports addressing the Defendant's competency to proceed in the criminal case when the Defendant has attained competency, or at least every six months.

BY THE COURT:



Lisa K. Janzen
Judge of District Court
Fourth Judicial District

DATED: August 26, 2021