

**IN THE UNITED STATES DISTRICT COURT,
WESTERN DISTRICT OF MISSOURI,
KANSAS CITY DIVISION**

UNITED STATES OF AMERICA,)	
)	
vs.)	Case No. 4:10-cr-00162-15-FJG
)	
MYLIN D. SMITH,)	
)	
Defendant.)	

MOTION TO DETERMINE COMPTENCY

COMES NOW Defendant, Mylin D. Smith, by and through undersigned counsel, and moves this Court for an order permitting a mental examination of the defendant pursuant Fed. R. Crim. Pro. Rule 12.2 and 18 U.S.C. § 4241. In support counsel submits the following:

1. In June, 2010 Defendant Smith was charged in Count One of a seventeen (17) count indictment with conspiracy to distribute cocaine and crack along with 22 co-defendants. Mr. Smith's case is scheduled for trial on the August, 2011 jury trial docket.
2. Defendant Mylin D. Smith was detained pending trial and is being housed in the Lafayette County Jail.
3. U.S. Marshal's Office contacted undersigned counsel and advised that jail officials for Lafayette County had Defendant Smith evaluated for mental health issues by Schlotman Counseling Services. A report was generated from that screening.
4. A copy of the above referenced report was provided to Counsel.

Undersigned states to the Court that the contents of the report suggests there appears to be reasonable cause to believe the defendant may presently be suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to

understand the nature and consequences of the proceedings against him or to assist properly in his defense.

5. Counsel contacted the office of Schlotman Counseling Services and was advised that it was their opinion that a further mental evaluation was warranted as it relates to competency issues.

6. Undersigned counsel has discussed this issue with Assistant United States Attorney, Brent Venneman who stated the government has no objection to this request.

WHEREFORE, counsel moves this Court pursuant to 18 U.S.C. § 4241 for a mental evaluation of the defendant to determine his competency. Accordingly, counsel requests this court order a mental examination of defendant by at least one qualified psychiatrist or psychologist who shall prepare and submit a written report to this court concerning the defendant's mental ability to understand the proceedings presently pending against him and to properly assist the undersigned in his defense.

Respectfully submitted,

s/ Alex McCauley
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Certificate of Service

I hereby certify that a copy of the foregoing document was electronically filed with the Clerk of the Court on February 22, 2011 by using the CM/ECF system, which will send a notice of electronic filing to all Counsel of Record.

s/ Alex McCauley
Alex McCauley, MO Bar No. 52632