

**UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE**

**UNITED STATES OF AMERICA**

**v.**

**ALVIN C. HARDY,**

**DEFENDANT**

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**CRIMINAL No. 09-130-P-H**

**ORDER ON GOVERNMENT’S MOTION TO DISMISS**

The government has filed a motion to dismiss without prejudice the criminal charges pending against defendant Alvin C. Hardy “for reasons related to his mental condition.”<sup>1</sup> Mot. to Dismiss (Docket Item 88).<sup>2</sup> The government has also renewed its motion to return Hardy to FMC Butner to provide its facility director with the opportunity to evaluate him and issue a dangerousness certificate pursuant to 18 U.S.C. § 4246, if appropriate, and asked that I stay operation of the order of dismissal pending completion of that dangerousness evaluation. Id. I previously expressed approval of this procedure in my order denying the government’s earlier motion for a dangerousness evaluation. Order Denying Mot. to Evaluate for Dangerousness

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<sup>1</sup> “More specifically,” the government says it is moving to dismiss the charges “because doctors at Butner Federal Medical Center have examined Mr. Hardy and opined that he was not criminally responsible at the time of the offenses charged in the indictment.” Mot. to Dismiss (Docket Item 88).

<sup>2</sup> The defendant has requested that I dismiss the charges with prejudice. Resp. to Mot. to Dismiss (Docket Item 89).

at 7-8 (Docket Item 87) (citing United States v. Godinez-Ortiz, 563 F.3d 1022 (9th Cir. 2009)).

Accordingly, I **GRANT** the government's motion to dismiss without prejudice and its motion to return Hardy to FMC Butner for a dangerousness evaluation pursuant to 18 U.S.C. § 4246. The duration of the commitment at FMC Butner is controlled by 18 U.S.C. § 4247(b) (45 days and any reasonable extension not to exceed 30 days). The order of dismissal is stayed pending the dangerousness evaluation.

**SO ORDERED.**

**DATED THIS 18TH DAY OF MARCH, 2011**

/s/D. BROCK HORNBY  
**D. BROCK HORNBY**  
**UNITED STATES DISTRICT JUDGE**

**U.S. DISTRICT COURT  
DISTRICT OF MAINE (PORTLAND)  
CRIMINAL DOCKET No. 2:09CR130 (DBH)**

**United States of America**

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v.

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