

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
 v.) Case No.
)
 DEFENDANT,)
)
 Defendant.)

ORDER

Pending before the Court is the motion of defendant _____ for the appointment of a mitigation specialist to assist in the preparation and presentation of evidence at any penalty phase which may occur in this federal death penalty case. The government has no objection to the appointment of such a specialist, but does request that if mental health evidence is to be relied upon by the defendant at any stage in this case, appropriate notice should be provided to the government. For the reasons set forth in defendant's motion, and for good cause appearing, it is

ORDERED that _____ is appointed, pursuant to 21 U.S.C. Section 848(q) (9) and (10), to serve as a mitigation expert on behalf of defendant _____ at the rate of \$35.00 per hour. It is further

ORDERED that defendant _____ shall comply with the following requirements:

(a) Notice: The defendant shall specify no later than twenty (20) days in advance of trial, whether he intends to introduce mental health evidence at any stage of trial. If the defendant wishes to introduce mental health testimony at the guilt phase, he must file notice with the Court and provide notice to the government in accordance with Rule

12.2(b), F.R. Crim. P. If the defendant wishes to introduce mental health testimony at the penalty phase, he must file such notice with the Court and provide notice to the government. Notice shall include the name and professional qualifications of any mental health professional who may be testifying or whose examination may be referred to in testimony, and a brief description of the professional's diagnostic conclusions.

(b) Examination: If defendant indicates that he wishes to introduce mental health testimony at the penalty phase, the defendant may be examined by a psychiatrist or other mental health professional selected by the government.

(c) Filing of results with the Court: Results of any Court-ordered examination or examination initiated by the defendant shall be filed under seal with the Court prior to commencement of trial.

(d) Release of results: The results of any Court-ordered examination of defendant shall be released to the government at the Court's discretion, and only in the event that the jury reaches a verdict of guilty as to that defendant.

(e) Limitations on use of mental health examination results: No evidence obtained as a result of the examinations shall be introduced or used by the government until a defendant has opened the door to such use, and the Court has made a determination on the admissibility of such evidence in accordance with 21 U.S.C. Section 848(j).

(f) Consequences of non-compliance: Failure of any defendant to provide notice or participate in a Court-ordered examination may result in the forfeiture of the right to present mental health testimony at trial.

CHIEF UNITED STATES MAGISTRATE JUDGE

