

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

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

ORDER

On August 23, 1995, defendant _____ filed a motion for the authorization of funds under the Criminal Justice Act to obtain expert assistance in the area of mental competency, insanity and mitigation (Doc. No. 249). In this case, the United States has received certification from the Department of Justice to seek the death penalty against defendant _____ pursuant to 21 U.S.C. § 848(e)(1)(A)(I). In support of the motion, counsel for defendant _____ states:

Counsel herein has had a number of contacts with the defendant, _____. Based on those contacts and counsel's experience, counsel has significant questions as to whether or not the defendant in this case is fully capable of understanding the proceedings against him and is fully able to grasp reality. A physical inspection of defendant _____ will reveal that on one side of his head, virtually one entire ear has been removed. Counsel understands that this was due to a severe auto accident that occurred in the mid-1980's. Also, it is counsel's understanding that defendant _____ has participated in both amateur and professional boxing, and may well have suffered head injuries while participating in that sport.

The mental condition of defendant _____ is material because it impacts on whether or not the defendant has a potential insanity or competency defense and whether

there are circumstances which mitigate against the imposition of the death penalty. Additionally, defendant _____ has already demonstrated financial indigence sufficient to warrant the appointment of counsel.

Counsel for defendant candidly acknowledges that he presently does not possess sufficient information to determine whether a viable insanity defense or a good faith claim of incompetency to stand trial exists. In fact, counsel for defendant _____ believes it is unlikely that the defenses of insanity or competency to stand trial will ultimately be relied upon. However, based on the experience of counsel, to which the Court gives substantial deference in these circumstances, these defenses must be explored before they can be ruled out.

The motion of defendant _____ seeks authority to employ psychologist _____, Ph.D. to conduct a preliminary examination of the defendant for purposes of potential insanity and competency defenses as well as to begin examining the defendant for purposes of offering mitigating evidence during any penalty phase of this case. Dr. _____ has estimated that his evaluation under these guidelines would cost approximately \$3,000.00 to \$4,000.00. Dr. _____ charges \$160.00 per hour and estimates that his evaluation of the defendant would consist of two lengthy interviews and the administration of certain psychological tests.

Based on these circumstances, pursuant to 21 U.S.C. § 848(q)(9) and (10), the Criminal Justice Act, 18 U.S.C. § 3006A(e)(1), and for good cause appearing, the Court finds that the expert services requested by defendant _____ are necessary and the defendant is financially unable to obtain them. It is

ORDERED that defendant _____ is authorized to expend \$3,500 under the Criminal Justice Act for the purpose of retaining Dr. _____ to conduct a mental examination of the defendant for the purpose of evaluating the defenses of insanity and competency to stand trial and for considering circumstances in mitigation of the imposition of the death penalty. Any additional expenditure of funds to Dr. _____ under the Criminal Justice Act must be approved by the Court.

Chief United States Magistrate Judge

Kansas City, Missouri