

FILED

UNITED STATES COURT OF APPEALS

APR 14 2011

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

<p>UNITED STATES OF AMERICA,</p> <p style="text-align: center;">Plaintiff - Appellee,</p> <p style="text-align: center;">v.</p> <p>JARED LEE LOUGHNER,</p> <p style="text-align: center;">Defendant - Appellant.</p>
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No. 11-10137

D.C. No. 4:11-cr-00187-LAB  
District of Arizona,  
Tucson

ORDER

Before: LEAVY, CLIFTON, and BYBEE, Circuit Judges.

The court takes judicial notice of the district court’s response to the petition for writ of mandamus, filed March 28, 2011, in petition No. 11-70828. In light of that response, the court sua sponte remands this case so that the district court may correct its March 21, 2011 order.<sup>1</sup>

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<sup>1</sup>The defendant points out that the district court’s order encompasses not only competency evaluations ordered by the court under 18 U.S.C. §§ 4241 and 4247, but also competency evaluations conducted by defense-retained examiners. Accordingly, the district court may wish to clarify whether its order precludes the defendant from retaining its own examiner to conduct a competency evaluation and whether any evaluation *by a defense-retained examiner* is subject to the conditions imposed by the district court’s order (e.g., whether an examination by a defense-retained examiner must be conducted at the Springfield, Missouri Medical Referral Center by April 29, 2011, and whether the defense must automatically turn over any reports prepared by defense-retained examiners). *See* 18 U.S.C. § 4247(d)

(continued...)

The temporary stay issued March 24, 2011 is lifted.

**REMANDED.**

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<sup>1</sup>(...continued)

(stating that at a competency hearing, a defendant “shall be afforded an opportunity to testify, *to present evidence*, [and] to subpoena witnesses on his behalf”).