

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE  
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

UNITED STATES OF AMERICA     )  
  )  
          v.                             ) CRIMINAL ACTION NO.  
  )         1:98cr74-MHT  
ALEX TYRONE McNAIR             )                 (WO)

OPINION AND ORDER

This case is again before the court on concerns raised, sua sponte, at defendant Alex Tyrone McNair's revocation hearing, held on April 23, 2008, about McNair's competence to stand for revocation. Upon consideration of the presentence investigation report, prepared by the United States Probation Office, and representations made to this court at the April revocation hearing, this court ordered counsel for McNair to file a mental-health evaluation with the court. A copy of the initial evaluation, performed by Dr. Catherine Boyer, was received by the court on June 13, 2008. After reviewing the evaluation, the written

submissions by the government and defense counsel, McNair's letter to the court filed September 3, and the oral representations by the parties at the latest revocation hearing on September 4, 2008, the court finds that McNair is competent to stand for revocation. Dr. Boyer concluded that: "Mr. McNair does not currently exhibit symptoms that would be expected to prevent him from understanding the proceedings and assisting counsel in his defense. He is able to communicate in a coherent, rational manner." Both Dr. Boyer's evaluation and McNair's hand-written letter to the court are of particularly importance in the court's determination that he is competent.

The court therefore finds that McNair is not "suffering from a mental disease or defect rendering him ... unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense." 18 U.S.C. § 4241(a).

Accordingly, it is ORDERED and DECLARED that defendant Alex Tyrone McNair is mentally competent to stand for the revocation proceeding in this case.

DONE, this the 8th day of September, 2008.

/s/ Myron H. Thompson  
UNITED STATES DISTRICT JUDGE