

**UNPUBLISHED****UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT**

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**No. 17-6164**

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**UNITED STATES OF AMERICA,****Petitioner - Appellee,****v.****DUANE MONTGOMERY,****Respondent - Appellant.**

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Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. W. Earl Britt, Senior District Judge. (5:16-hc-02218-BR)

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Submitted: October 17, 2017

Decided: November 3, 2017

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Before MOTZ, TRAXLER, and KEENAN, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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Louis C. Allen, Acting Federal Public Defender, Eric J. Brignac, Assistant Federal Public Defender, Raleigh, North Carolina, for Appellant. John Stuart Bruce, United States Attorney, G. Norman Acker, III, Assistant United States Attorney, Robert J. Dodson, Special Assistant United States Attorney, Raleigh, North Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

**PER CURIAM:**

Duane Montgomery appeals the district court's order finding by a preponderance of the evidence that he is presently suffering from a mental disease or defect for the treatment of which he is in need of custody for care and treatment in a suitable facility and committing him to the custody of the Attorney General for hospitalization and treatment. See 18 U.S.C. § 4245 (2012). Montgomery contends that the district court clearly erred in reaching this conclusion. We affirm.

In finding that Montgomery satisfied the criteria for commitment, the district court relied on two written forensic evaluations prepared by staff at FMC-Butner as well as the testimony of a third forensic psychologist. The unanimous conclusion of the medical personnel was that Montgomery suffered from a mental disease or defect for which he required treatment at a suitable facility. Montgomery presented no evidence to contradict these opinions. Based on Montgomery's medical history, the written evaluations, and the sworn testimony, we conclude that the district court did not clearly err when it found that he met the criteria for commitment under § 4245.

Accordingly, we affirm. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

**AFFIRMED**

FILED: January 3, 2018

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ORDER

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The court denies the petition for rehearing.

Entered at the direction of the panel: Judge Motz, Judge Traxler and Judge

Keenan.

For the Court

/s/ Patricia S. Connor, Clerk