

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

October 26, 2011

Lyle W. Cayce
Clerk

No. 10-10069
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellant

v.

LESTER JON RUSTON,

Defendant-Appellee

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:04-CR-191-1

Before HIGGINBOTHAM, DAVIS, and ELROD, Circuit Judges.

PER CURIAM:*

Lester Jon Ruston, federal civil detainee # 26834-177, was indicted in 2004 for threatening to assault and murder a United States Magistrate Judge and found not guilty by reason of insanity. Ruston appeals the district court's order on remand finding him incompetent under 18 U.S.C. § 4241 and ordering him to remain civilly committed to the custody of the Attorney General.

The district court did not clearly err in determining that Ruston was not competent under § 4241 based on a forensic psychological evaluation performed

* Pursuant to 5th Cir. R. 47.5, the court has determined that this opinion should not be published and is not precedent

No. 10-10069

by Shawn E. Channell, Ph.D. and the parties' joint stipulation. Accordingly, the Government's motion to dismiss the appeal is GRANTED, the appeal is DISMISSED, and all other motions are DENIED.