

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
JUDGE KANE PRESIDING

Criminal Case No. 15-CR-01113

UNITED STATES OF AMERICA,

Plaintiff,

v.

1. GABRIAL ARCHULETS

2. THOMAS J. LUCERO

3. THOMAS MCQUOWN

Defendants.

SUPPLEMENT TO MOTION TO RE-RAISE THE ISSUE OF COMPETENCY
AND REPLY TO GOVERNMENT'S RESPONSE

Counsel for Mr. McQuown supplements his motion to re-raise competency and replies to the government's response as follows;

1. The government's response does not recognize the fact that while Dr. Micono did indicated her belief that Mr. McQuown was malingering, she also expressed the opinion that Mr. McQuown should be sent to a facility to be returned to competency.
2. Counsel for Mr. McQuown requested this Court authorized funds for psychologist to review the reports of Dr. Fukutaki and Dr. Micono. One of the purposes of the additional expert was to explain that a person can appear to be malingering or even in fact malingering and be incompetent. The two diagnoses are not exclusive of each other.
3. It is also restated that counsel made a serious error in judgement by not proceeding to an evidentiary hearing on the competency issue. In its response, the government claims counsel has been duped by his

client. First of all counsel has 34 years of experience in representing criminal defendants. Counsel has been involved in over 20 death penalty cases. Counsel has tried over 50 murder cases to a jury. Counsel has handled innumerable cases involving mental health issues. Counsel is not being duped by anyone. His opinion concerning incompetence is based on the aforementioned experience.

4. Counsel also says this with great respect for the Court and the government, however if counsel was “duped”, and this is language utilized by the government, it was by the government is stating what their position would be if the competency hearing would be based solely on the submission of the reports. Counsel is not alleging that the government intentionally misled anyone, but counsel for Mr. McQuown erred in his understanding of what the government’s position would be.

Respectfully submitted this 2nd day of May, 2016.

Michael Root, attorney at law

s/Michael Root
Michael G. Root
Attorney for Thomas McQuown
217 E. Seventh Ave.
Denver, Colorado 80203
(303)-318-7181
mroot@mikerootlaw.com

CERTIFICATE OF SERVICE

A copy of this motion to continue trial has been served on all parties by way of ECF

