

CERTIFICATE OF SERVICE

This is to certify that I have on this 27th day of July 2011, served the foregoing motion to dismiss upon counsel for the respondent by CM/ECF addressed to:

Ms. Suzanne Little
Assistant Federal Public Defender
150 Fayetteville Street Mall, Suite 450
Raleigh , NC 27601

/s/ Michael Gordon James
MICHAEL GORDON JAMES
Assistant United States Attorney
Civil Division
310 New Bern Avenue
Suite 800 Federal Building
Raleigh, NC 27601-1461
Telephone: (919) 856-4530
Facsimile: (919) 856-4821
E-mail: Mike.James@USDOJ.gov
N.Y. Bar # 2481414
Attorney for Petitioner

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 5:07-HC-2020-D

UNITED STATES OF AMERICA,)	
Petitioner,)	
)	MEMORANDUM IN SUPPORT OF
v.)	MOTION TO DISMISS
)	CERTIFICATION OF A SEXUALLY
WAYNE ROBERT HICKS,)	DANGEROUS PERSON
Respondent.)	

The United States of America, by and through the United States Attorney for the Eastern District of North Carolina, hereby moves to dismiss the certification of a sexually dangerous person entered in the above-captioned matter, and in support thereof shows onto this Honorable Court:

1. The United States, pursuant to lawful procedures, certified the Respondent as a sexually dangerous person under 18 U.S.C. § 4248 on January 12, 2007. (D.E. #1).

2. On May 26, 2005, respondent's term of supervised release was revoked and respondent sentenced to 24 months' imprisonment upon a judicial finding that respondent admitted that he violated the terms of his supervised release. See Exhibit 1 - Judgment in revocation hearing held in United States v. Wayne Robert Hicks, Criminal Number 1:99-CR-210-001-WS (S.D. Ala. May 26, 2005). Respondent is no longer subject to a term of supervised release.

3. Upon a more detailed review of the Respondent's condition, and factors particular to this case, the United States concludes that it will not be able to meet its burden of proving by

clear and convincing evidence that respondent will, based on a serious sexual abnormality or mental disorder, have serious difficulty in refraining from engaging in sexually violent conduct or child molestation.

4. Therefore, the United States hereby moves to dismiss the Certification of a Sexually Dangerous Person entered in the above-captioned matter and the case.

Respectfully submitted, on this 27th day of July 2011.

THOMAS W. WALKER
United States Attorney

/s/ Michael Gordon James
MICHAEL GORDON JAMES
Assistant United States Attorney
Civil Division
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Suite 800 Federal Building
Raleigh, NC 27601-1461
Telephone: (919) 856-4530
Facsimile: (919) 856-4821
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/s/ Michael Gordon James
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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:07-HC-2020-D

UNITED STATES OF AMERICA,)
)
Petitioner,)
)
v.)
)
WAYNE ROBERT HICKS,)
Register Number 07421-003,)
)
Respondent.)

ORDER

On January 12, 2007, the government filed a petition for respondent Wayne Robert Hicks's commitment pursuant to 18 U.S.C. § 4248 [D.E. 1]. On July 27, 2011, the government filed a motion to dismiss the petition [D.E. 47], because after "a more detailed review of the Respondent's condition[] and factors particular to this case, the United States conclude[d] that it will not be able to meet its burden of proving by clear and convincing evidence that respondent will, based on a serious sexual abnormality or mental disorder, have serious difficulty in refraining from engaging in sexually violent conduct or child molestation." Gov't Mem. Supp. Mot. Dismiss ¶ 3.

For the reasons stated in the memorandum in support of the motion to dismiss, the court GRANTS the motion [D.E. 47], and DISMISSES the above-captioned action.

SO ORDERED. This 28 day of July 2011.


JAMES C. DEVER III
United States District Judge