

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 07-7539**

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UNITED STATES OF AMERICA,

Petitioner - Appellee,

v.

MICHAEL GARNER,

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. (5:07-hc-02037-BR)

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Submitted: June 3, 2008

Decided: June 24, 2008

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Before NIEMEYER and DUNCAN, Circuit Judges, and HAMILTON, Senior Circuit Judge.

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Affirmed by unpublished per curiam opinion.

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Thomas P. McNamara, Federal Public Defender, Jane E. Pearce, Assistant Federal Public Defender, Diana Pereira, Research and Writing Specialist, Raleigh, North Carolina, for Appellant. George E. B. Holding, United States Attorney, Anne M. Hayes, Assistant United States Attorney, David T. Huband, 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Unpublished opinions are not binding precedent in this circuit.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:

Michael Drew Garner appeals the district court's order committing him to the custody of the Attorney General under 18 U.S.C. § 4246 (2000). The district court found by clear and convincing evidence that Garner "is presently suffering from a mental disease or defect as a result of which his release would create a substantial risk of bodily injury to another person or serious damage to property of another." 18 U.S.C. § 4246(d) (2000).

We review the district court's determination for clear error. United States v. Cox, 964 F.2d 1431, 1433 (4th Cir. 1992). A factual finding is clearly erroneous when the reviewing court is "left with the definite and firm conviction that a mistake has been committed." Anderson v. City of Bessemer City, 470 U.S. 564, 573 (1985) (internal quotation marks and citation omitted).

We have reviewed the record, the district court's conclusion, and the briefs of the parties, and find that the district court's determination is supported by the record and is not clearly erroneous. Accordingly, we affirm the order of the district court. 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