

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-4141

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

DAVID CLARENCE WARD,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of North Carolina, at Asheville. Lacy H. Thornburg, District Judge. (CR-02-63)

Submitted: December 17, 2003

Decided: February 5, 2004

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

Affirmed by unpublished per curiam opinion.

Eric J. Foster, LAW OFFICE OF RICK FOSTER, Asheville, North Carolina, for Appellant. Donald D. Gast, OFFICE OF THE UNITED STATES ATTORNEY, Asheville, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

David Clarence Ward was convicted after a jury trial of bank robbery, in violation of 18 U.S.C. § 2113(a) (2000), armed bank robbery, in violation of 18 U.S.C. § 2113(d), possession of a firearm during a crime of violence, in violation of 18 U.S.C. § 924(c)(1)(A)(ii) (2000), and possession of a firearm by a convicted felon, in violation of 18 U.S.C. § 922(g) (2000). Ward challenges the district court's order denying without prejudice his motion for authorization for funds for psychiatric examination. We affirm.

Appointment of an expert psychiatrist is permitted under 18 U.S.C. § 3006A(e) (2000), in cases where competency or insanity is an issue. A court may refuse to authorize § 3006A(e) expert services on the ground that they are not necessary, if the court concludes that the defendant does not have a plausible claim or defense. See United States v. Fince, 670 F.2d 1356, 1357-58 (4th Cir. 1982). The decision to deny or grant a motion for services pursuant to § 3006A(e) is committed to the sound discretion of the district court and may only be overturned upon a showing of abuse of that discretion. See United States v. Hartsell, 127 F.3d 343, 349 (4th Cir. 1997). Ward's motion stated that he was not asserting incompetence to stand trial and he had not filed a notice pursuant to Fed. R. Crim. P. 12.2 raising mental condition as a

defense. Under these circumstances, the district court did not abuse its discretion in denying Ward's motion.

Accordingly, we affirm Ward's conviction. We grant the motions to seal the Government's brief and Ward's reply brief. 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