

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA  
NORTHWESTERN DIVISION

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UNITED STATES OF AMERICA,

CASE NO.: 4:15-MJ-008

Plaintiff,

MEMORANDUM IN SUPPORT OF  
MOTION FOR PSYCHOLOGICAL/  
PSYCHIATRIC EXAMINATION

vs.

MICHELLE LYNÆ WOUNDED FACE,

Defendant.

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The undersigned has submitted a Motion requesting that the Court Order a psychological/psychiatric evaluation of the Defendant, Michelle Lynae Wounded Face. Ms. Wounded Face was charged with Child Abuse by Complaint on January 8, 2015.

The Complaint alleges that, on January 3, 2015, Ms. Wounded Face made several incomprehensible comments to Three Affiliated Tribal Police Officer Michael White Owl. Officer White Owl could only understand two comments, which stated something along the lines of President Barack Obama being mad at Ms. Wounded Face because she is pregnant and things are coming to the end because the oil is running out. Of note, the Heart of America Correctional and Treatment Center ("HACTC") had a physicians assistant medically evaluate Ms. Wounded Face, and he determined she is not pregnant, as reported by the security staff at the HACTC.

On January 5, 2015, after being arrested for alleged child abuse, Three Affiliated Tribal Chief Investigator Grace Her Many Horses and Federal Bureau of Investigation Special Agent Megan Bennett interviewed Ms. Wounded Face. Ms. Wounded Face explained that God and the Great Spirit told her that she is a portal to all worlds. Ms. Wounded Face continued, informing the law enforcement personnel that she had been given the great gift or power by God and the

Great or Almighty Spirit to “send people up.” Ms. Wounded Face then explained that a relative told her, “your girls can’t live down there, you have to send them up to me.” Although never fully explained in the Complaint, the relative was presumably a dead relative. Then, Ms. Wounded Face stated, “I did it to my baby girls...at first they were scared...I didn’t kill them, I didn’t do anything, they went up by themselves...it was so beautiful.”

Ms. Wounded Face’s initial appearance in Federal Court occurred on January 9, 2015. The preliminary and detention hearings occurred on January 12, 2015. However, Magistrate Judge Miller was not able to through the introductory part of the hearing and onto the substance of the hearing due to Ms. Wounded Face’s outbursts and delusional exclamations. Summarizing and paraphrasing some of her statements, she claimed: she is the daughter of Zeus and Athena; she is pregnant with the children of the gods, and the children are named Hercules and Achilles; she admonished Judge Miller that the hearings were on national television (she appeared via video from the Rugby Correctional Center) and claimed that she owns national television; and accused Judge Miller of being Richard Posey. Judge Miller attempted to explain the nature of the proceedings and the nature of the charges, but Ms. Wounded Face appeared unable to process the information he provided and rejected any statements he made. Judge Miller terminated the hearing, holding Ms. Wounded Face obviously could not understand what was happening.

The undersigned and Christina Markwardt, Investigator for the Federal Public Defender’s office, visited with Ms. Wounded Face on January 15, 2015 at the HACTC. The undersigned and Ms. Markwardt were able to converse with Ms. Wounded Face for a little under an hour; however, the vast majority of the conversation focused on Ms. Wounded Face’s delusional thinking, small talk regarding things Ms. Wounded Face likes, and some aspects of Ms.

Wounded Face's past. Any attempts to steer the conversation towards the nature of the charges against her and how to properly defend the charges were thwarted by Ms. Wounded Face. Notably, the undersigned and Ms. Markwardt could not even discuss events in the present or contemplate future events, outside of Ms. Wounded Face's delusions. Many of her statements reflected or elaborated on her previously stated delusions, such as being the daughter of Zeus, being pregnant with four children, and that counsel and Ms. Markwardt were evil forces, in shape-shifting form, sent to steal her soul. Ms. Wounded Face rejected the notion that the undersigned is her court-appointed counsel and that Ms. Markwardt works as an investigator in the undersigned's office. The conversation ended with Ms. Wounded face throwing up onto the floor of her cell and spitting at the undersigned and Ms. Markwardt.<sup>1</sup> The visit culminated with Ms. Wounded Face horrendously screaming in her cell while simultaneously sobbing profusely.

Although the undersigned lacks documentation and has only heard the following information via hearsay, counsel has learned that Ms. Wounded Face has drank toilet water and spit it at correctional staff. Additionally, she ripped up several pillows and attempted to eat the stuffing. Ms. Wounded Face has begun engaging in bulimia, and, according to the Director of Security at HACTC, she is the worst mental health case that he has ever seen. The undersigned believes the staff at HACTC is preparing reports on Ms. Wounded Face's conduct, which the undersigned will later move to acquire.

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<sup>1</sup>Of note, the undersigned talked with Ms. Wounded Face through the door and food slot of her cell due to security concerns by the security staff at HACTC. The Correctional Center has moved her to an isolated cell and only provides a mattress, pillow, and suicide blanket due to safety concerns. The undersigned explained we would not discuss privileged information during the interview but merely desired to build rapport with Ms. Wounded Face and determine if she is competent to comprehend the charges and assist counsel in her defense.

After having had several attempted conversations with the Ms. Wounded Face, as well as speaking to the corrections and nursing staff at the Heart of America Correctional and Treatment Center, it is apparent to the undersigned that a psychological or psychiatric evaluation will be of significant assistance relative to the representation of Ms. Wounded Face. The undersigned has spoken about this with Assistant United States Attorney Jennifer Holmes, and the United States also agrees that this information may be helpful with regard to the issues involved in the case as well as possible case disposition.

At this point in time, it appears that the competency of Ms. Wounded Face is at issue, specifically whether or not she fully understands the nature of the charges that have been filed against her and can actively and appropriately participate in her defense should the case move forward. The competency of Ms. Wounded Face at the time of the alleged acts is also at issue, specifically, whether, as a result of severe mental disease or defect, Ms. Wounded Face was unable to appreciate the nature and quality or the wrongfulness of her alleged acts. The undersigned believes that a psychological or psychiatric evaluation should be performed.

If granted, the undersigned would request that copies of the evaluation report be provided to the undersigned and the United States. The undersigned shall also file a second motion and memorandum of law requesting the competency evaluation according to 18 U.S.C. § 4241(a) and (b) and the competency evaluation according to 18 U.S.C. § 4242(a) be videotaped, and the recording be provided to the undersigned and the United States.

Dated this 16th day of January, 2015.

Respectfully submitted,

NEIL FULTON  
Federal Public Defender  
By:

/s/ Ryan M. Costello  
Ryan M. Costello  
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CERTIFICATE OF SERVICE

I hereby certify that on January 16, 2015, the following document(s):

**Memorandum in Support of Motion for Psychiatric/Psychological Examination**

were filed electronically with the Clerk of Court through ECF, and that ECF will send a Notice of Electronic Filing (NEF) to the following:

Jennifer Holmes  
[jennifer.holmes@usdoj.gov](mailto:jennifer.holmes@usdoj.gov)

I further certify that copy of the foregoing documents and the Notice of Electronic Filing will be mailed first class mail, postage paid, to the following non-ECF participants:

/s/ Ryan M. Costello  
Ryan M. Costello  
Assistant Federal Public Defender