

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,  
Plaintiff,

v.

Criminal No. 1:09MJ71

MARCUS BROOKS,  
Defendant.

**ORDER/OPINION**

This matter is before the undersigned United States Magistrate Judge on Defendant's Motion "To Dismiss Charges Of Possessing A Prohibited Object." [DE 8] Defendant is represented by L. Richard Walker of the Federal Public Defender's Office. The subject motion was filed by Defendant and purports to have been prepared by "Walter Bernard Morton #06122-007 Under supervisor Deputy director Of Public Defender Service Washington D.C." subsequent to appointment of counsel<sup>1</sup>. L. Richard Walker notes the obvious lack of any criminal charges pending against his client and also notes that he has no intent to adopt Defendant's pro se motion.<sup>2</sup>

In the absence of charges pending against Brooks, there are no charges for the motion to dismiss to attach and, therefor the motion to dismiss is **DENIED without hearing**.

The Clerk is hereby directed to withdraw DE from the docket of motions actively pending before this Court.

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<sup>1</sup>L. Richard Walker was appointed to represent the Marcus Brooks on August 25, 2009. The subject motion to dismiss was filed November 17, 2009. No charges have been filed against Marcus Brooks since the Court opened the case to permit appointment of counsel for Marcus Brooks. Walter Bernard Morton appears to be an inmate at BOP Hazelton and the deputy director of Public Defender Service named in the motion has not made an appearance in this proceeding and has not been substituted as counsel for Defendant in this matter.

<sup>2</sup>Email from L. Richard Walker to David Godwin and Court chambers staff dated October 16, 2009. The docket reflects that no charges have been filed to the date of this order.

It is so **ORDERED**.

The clerk is directed to send copies of this Order to counsel of record and to the Defendant.

Dated: November 19, 2009

*John S. Kaul*

JOHN S. KAULL

UNITED STATES MAGISTRATE JUDGE