



Psychiatric Security Review Board

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ARIZONA STATE PSYCHIATRIC SECURITY REVIEW BOARD GENERAL SESSION MINUTES March 31, 2017

Members:

James P. Clark, M.D., Chairperson
Susan Stevens, Esq.
Paul O'Connell

Assistant Attorneys General:

Thomas Raine, Esq., for the Psychiatric Security Review Board
Louis Caputo, Esq., for the Arizona State Hospital

Staff:

Jaime L. Shapiro, Executive Director

Guests Present and/or Participating:

Alexandra Martinez, ASH	Diane Wagner, ASH
Alice Pickering, ASH	Elvina Karabas, ASH
Andrew J. Blischak, Esq.	Francesca Sanges, Attorney General's Office
Austin Gealta	Jandely Eich, ASH
Barbara LeBourdais	Johanna Lippert, N.P., ASH
Christie Saracino, ASH	Jon Strickler, Cenpatico
Christine Hoffman, ASH	Julie Jackson, ASH
Concetta Williams, AHCCCS ☎	June Comroe, Maricopa County Public Fiduciary
D.L. Robinson, Maricopa County Public Defender	Kennedy Klagge, Esq., Yavapai County Public Defender ☎
Daniel Marakovits, Attorney General's Office	Kimberly Boersema, ASH
Danielle Weston, ASH	Kimberly Wegener, ASH
Deborah Hall, La-Frontera	Laurinda Cumming
Diane Rodriguez, ASH	

Laxman Patel, M.D., ASH
Lindsey Arendt, ASH
Manuel Gray, La Frontera
Margaret Franklin
Melissa Falls, ASH
Nicole Floyd, ASH
Patrina Yazzie, MMIC
Rebecca Bogumill, ASH
Robert J. Trebilcock, Esq.

Robert Rodriguez, Hope Lives
Samantha Miller, ASH
Santana Randle, ASH
Stefanie Jones-Campbell, Esq., Pinal County
Public Defender
Tammy Wray, Esq., Maricopa County
Public Defender
Tiffany Kirby, ASH
Tyler Penny, ASH

☎ Participated Telephonically

Call To Order

James Clark called the meeting to order at 1:04 p.m. and read the Executive Session Confidentiality Statement:

“Minutes of and discussions made in executive session are required by law to be kept confidential and shall not be communicated to any person outside this meeting room, except to members of the Board, a person who is the subject of the discussion pursuant to A.R.S. §38-431.03(A)(1), the auditor general in connection with an audit authorized by law and the attorney general.”

Dr. Clark swore in individuals who anticipated testifying.

Statutory Hearings

Austin Dane Gealta – PSRB No. 11-06

Austin Gealta was present with his attorney, Kennedy Klagge, who appeared telephonically. The statutory hearing was held from 1:06 p.m. to 1:10 p.m. pursuant to Arizona Revised Statutes (A.R.S.) § 13-3994(J). The outpatient attending practitioner did not recommend court-ordered evaluation.

Ms. Klagge shared that her client is doing very well and is ready to proceed to the next steps in his recovery. Mr. Gealta discussed his future plans to continue treatment and medication.

A motion was made by Susan Stevens, seconded by Paul O’Connell and passed 3 – 0 to allow its jurisdiction over Austin Gealta expire without ordering the Yavapai County Attorney to initiate civil commitment proceedings, based on the evidence presented by the outpatient treatment team.

Discussion, Amendment and Approval of Modifications to Conditional Release to the Community Orders for the Following:

Austin Gealta, PSRB No. 11-06

After discussion, a motion was made by James Clark, seconded by Susan Stevens and passed 3 – 0 to approve the proposed amendments to the terms of conditional release for Mr. Gealta.

Statutory Hearings

David Andrew Mitchell – PSRB No. 01-15

David Mitchell was not present and his attorney, and Robert J. Trebilcock, waived his presence. The statutory hearing was held from 1:16 p.m. to 1:17 p.m. pursuant to A.R.S. § 13-3994(H). There was no recommendation at that time.

Mr. Trebilcock shared that his client declined to meet with him and be present, so he had nothing to add at that time.

A motion was made by Susan Stevens, seconded by Paul O’Connell and passed 3 – 0 to deny conditional release for David Mitchell based on the evidence presented by the Arizona State Hospital’s treatment team, that Mr. Mitchell did not prove by clear and convincing evidence that he no longer suffers from a mental disease or defect, that the mental disease or defect is in stable remission and that he is no longer dangerous. David Mitchell shall remain committed to the Arizona State Hospital.

Gerald Arthur Venhaus – PSRB No. 00-10

Gerald Venhaus was not present and his attorney, Tammy Wray, waived his presence. The statutory hearing was held from 1:18 p.m. to 1:19 p.m. pursuant to A.R.S. § 13-3994(H). There was no recommendation at that time.

Ms. Wray mentioned that her client declined to appear and that she reviewed the report with him and had nothing to add.

A motion was made by Paul O’Connell, seconded by Susan Stevens and passed 3 – 0 to deny conditional release for Gerald Venhaus based on the evidence presented by the Arizona State Hospital’s treatment team, that Mr. Venhaus did not prove by clear and convincing evidence that he no longer suffers from a mental disease or defect, that the mental disease or defect is in stable remission and that he is no longer dangerous. Mr. Venhaus shall remain committed to the Arizona State Hospital.

Paula Kristine Hughes-Riccio – PSRB No. 11-04

Paula Hughes-Riccio was not present and her attorney, Tammy Wray, waived her presence. The statutory hearing was held from 1:20 p.m. to 1:24 p.m. pursuant to A.R.S. § 13-3994(H). The outpatient treatment team recommended a modification to the conditional release plan which would allow Ms. Hughes-Riccio to self-administer as needed medication.

Mr. Raine cautioned the Board that if the Board wished to discuss specifics of the medication, it should be discussed in executive session. Ms. Wray clarified the recommendation to the Board.

A motion was made by James Clark, seconded by Susan Stevens to approve the treatment team's recommendations to amend the terms of conditional release to the community for Paula Hughes-Riccio to allow her to hold and self-administer as needed medications, and during the afternoon medication observation Ms. Hughes Riccio shall disclose and discuss with the treatment team any use of the PRN medication.

Kory Damon – PSRB No. 09-15

Kory Damon was present and his attorney, Tammy Wray. The statutory hearing was held from 1:25 p.m. to 1:31 p.m. pursuant to A.R.S. § 13-3994(J). The PSRB's jurisdiction over Mr. Damon ends on May 3, 2017. ASH recommended court-ordered evaluation for civil commitment.

Ms. Wray shared that she and Mr. Damon reviewed the report and he has no objections. He does plan to move out of state and live with his family eventually, but has agreed to live in a group home upon discharge from ASH. Dr. Clark and Mr. Caputo briefly discussed which records accompany a patient when ordered to undergo evaluation for civil commitment.

A motion was made by Susan Stevens, seconded by Paul O'Connell and passed 3 – 0 to order the Maricopa County Attorney to initiate civil commitment proceedings for Kory Damon pending the expiration of the PSRB's jurisdiction, based on the evidence presented, and that the Arizona State Hospital's treatment team be allowed to conditionally release Mr. Damon to the custody of an appropriate law-enforcement agency for transportation up to five days prior to the PSRB's jurisdiction expiration date.

After the vote, Juli Warzynski requested that the Board add language to the order to transport Mr. Damon to the evaluating facility, as she does not have the authority to order an agency to do so. Mr. Caputo said the County Sheriff's Office typically transports the patients. Mr. Raine informed the Board that there is nothing in the statutes that gives the Board authority to order ASH to transport a patient upon expiration of jurisdiction.

Rick William Stevenson – PSRB No. 95-06

Rick Stevenson was present and his attorney, Tammy Wray. The statutory hearing was held from 1:32 p.m. to 1:48 p.m. pursuant to A.R.S. § 13-3994(H). The State Hospital recommended conditional release to ASH; Phase one, Levels one and two.

Ms. Wray shared that Mr. Stevenson has worked hard to return to the Board to request greater responsibility and freedom. She added that Mr. Stevenson has forged a trusting and working relationship with his treatment team.

A motion was made by Dr. Clark, seconded by Susan Stevens and passed 3 – 0 to recess into executive session at 1:33 p.m. to discuss confidential information pursuant to A.R.S. § 38-431.03(A)(2).

After consideration in executive session, the Board reconvened in general session at 1:46 p.m.

In open session, Dr. Clark asked Dr. Walayat if ASH would consider an amendment to the proposed conditional release plan (CR plan) that approved level one and increased passes to fifteen (15) over a period of 180 days. Dr. Walayat agreed.

A motion was made by James Clark, seconded by Susan Stevens and passed 3 – 0 to grant conditional release to Arizona State Hospital, Phase one, Level one, and adopt the conditional release treatment plan, as amended to increase passes to fifteen (15) over a period of 180 days, based on the evidence presented by the Arizona State Hospital's treatment team, that Rick Stevenson's mental disease or defect is in stable remission and he is not dangerous if he remains a resident of the State Hospital and is compliant with the terms of conditional release and the treatment plan amended today.

Barbara Downey LeBourdais – PSRB No. 99-17

Barbara Downey LeBourdais was present with her attorney, Stefanie Jones-Campbell. The statutory hearing was held from 1:49 p.m. to 2:00 p.m. pursuant to A.R.S. § 13-3994(H). Ms. LeBourdais requested a modification to the terms of conditional release.

Ms. LeBourdais came before the Board to request the removal of the requirement for urine drug screens. Dr. Clark mentioned that there were several months of conditional release monthly reports in the Board's materials, and there were questions about whether Ms. LeBourdais was in compliance with treatment recommendations. Jaime Shapiro added that the recent monthly reports were inconsistent with regard to reporting compliance with the attending practitioner's recommendation for Mr. LeBourdais to attend individual therapy.

Ms. Jones-Campbell argued that, historically, each time Ms. LeBourdais has received a new case manager or treating provider, the monthly reports tend to report non-compliance due to, what Ms. Jones-Campbell believes is, unfamiliarity with the terms of conditional release. Ms. Jones-Campbell added that each time a report has been submitted to the Board as non-compliant, discussion ensues and Ms. LeBourdais was considered compliant following a detailed review. The Board and Ms. Jones-Campbell discussed urine drug screens and it was unknown as to whether ASH had fulfilled its requirement to screen Ms. LeBourdais randomly twice per year, as agreed to in 2015. Ms. Jones-Campbell added that for about 20 years prior to that, Ms. LeBourdais has had no report of positive drug screens. Ms. Jones-Campbell added that this issue was before the Board in 2013, and has been an ongoing issue since Ms. LeBourdais is non-Title 19 and does not enjoy the same medical coverage that most folks under the Board's jurisdiction do. She added that her client has demonstrated that she has maintained an extended period of sobriety and urine drug screens are no longer necessary and extensive discussion ensued.

A motion was made by Paul O'Connell, seconded by Susan Stevens and passed 3 – 0 to dismiss the term of conditional release requiring Ms. LeBourdais to be urine drug screened.

Robin Louise Hill – PSRB No. 15-04

Robin Hill was present with her attorney, Andrew J. Blischak, who appeared on behalf of assigned attorney, John W. Blischak. The statutory hearing was held from 2:01 p.m. to 2:05 p.m. pursuant to A.R.S. § 13-3994(H). ASH recommended conditional release to the Hospital, phase two, levels three and four.

Mr. Blischak asked the Board to adopt the Hospital's recommendation. Dr. Lydon shared that, even though Ms. Hill has mobility issues, phase one of conditional release was completed without difficulty. The "approved others" listed on the proposed conditional release plan were discussed. Dr. Clark asked if an off-grounds pass of up to 48 hours was realistic with Hope Lives listed as an approved other, and Dr. Lydon agreed that it wouldn't. Dr. Lydon assured the Board that Ms. Hill attends substance abuse meetings on and off campus.

A motion was made by Susan Stevens, seconded by Paul O'Connell and passed 3 – 0 to approve Robin Hill for conditional release to Arizona State Hospital, Phase 2, Levels three and four, and adopt the conditional release treatment plan as amended to strike the term for 48 hour passes, based on the evidence presented by the Arizona State Hospital's treatment team, that Robin Hill's mental disease or defect is in stable remission and she is not dangerous if she remains a resident of the State Hospital and is compliant with the terms of conditional release and the treatment plan presented today.

Ronald Michael Motisko – PSRB No. 13-05

Robin Hill was present with her attorney, Andrew J. Blischak, who appeared on behalf of assigned attorney, John W. Blischak. The statutory hearing was held from 2:08 p.m. to 2:17 p.m. pursuant to A.R.S. § 13-3994(H). ASH recommended conditional release to the Hospital, Phase one, Levels one and two.

Mr. Blischak urged the Board to adopt the Hospital's recommendation.

A motion was made by Dr. Clark, seconded by Susan Stevens and passed 3 – 0 to recess into executive session at 2:08 p.m. to discuss confidential information pursuant to A.R.S. § 38-431.03(A)(2).

After consideration in executive session, the Board reconvened in general session at 2:14 p.m.

In open session, amendments to the proposed conditional release plan were discussed and agreed upon.

A motion was made by James Clark, seconded by Susan Stevens to approve Ronald Motisko for conditional release to Arizona State Hospital, Phase one, Level one, and adopt the conditional release treatment plan, as modified by the following: level one would consist of 6 passes over 180 days and; that Mr. Motisko would complete a Wellness Recovery Action Plan (WRAP) prior to being presented for level two, based on the evidence presented by the Arizona State Hospital's treatment team, that Mr. Motisko's mental disease or defect is in stable remission and he is not dangerous if he remains a resident of the State Hospital and is compliant with the terms of conditional release and the treatment plan presented today.

Walter Gray McCarthy – PSRB No. 10-13

Walter McCarthy was present with her attorney, Tammy Wray. The statutory hearing was held from 2:18 p.m. to 3:30 p.m. pursuant to A.R.S. § 13-3994(H). ASH recommended conditional release to the Hospital, Phase one, Levels one and two.

Ms. Wray asked the Board to address the motion she submitted yesterday.

A motion was made by James Clark, seconded by Susan Stevens and passed 3 – 0 to recess into executive session at 2:20 p.m. to obtain legal advice pursuant to A.R.S. § 38-431.03(A)(3).

After consideration in executive session, the Board reconvened in general session at 2:32 p.m.

In open session, Dr. Clark said the late submission of the Mr. McCarthy's Motion to Strike and Limit the Victim's Statements did not give the Board's attorney enough time to review and substantively respond, therefore, Ms. Cummings statements would not be stricken. Mr. Raine cautioned that any victim impact statements should relate to the impact of the crime and potentiality of dangerousness.

Ms. Wray said Mr. McCarthy was before the Board asking that the Hospital's recommendation be approved. Each expert that has evaluated Ms. McCarthy since December of 2012 has opined that Mr. McCarthy has been in stable remission and not dangerous since that time. She mentioned that Peggy Franklin, Mr. McCarthy's sister was in attendance and stands by her written submission to the Board. Ms. Wray pointed out that Ms. Lippert, Mr. McCarthy's treating provider, Dr. Holmes, who evaluated Mr. McCarthy for risk, and Dr. Robinson, who evaluated Mr. McCarthy and wrote an independent evaluation, were all present and ready to testify.

Laurinda Cummings, surviving victim, was present and wished to testify. Dr. Clark asked Ms. Cummings to limit her remarks to a victim's perspective.

Ms. Cummings recalled the crime in great detail and discussed its lasting impact on her life. Ms. Cummings asked the Board to deny conditional release citing Mr. McCarthy's dangerousness and propensity to re-offend.

Ms. Wray said, based on Ms. Cummings' statements, it appears that Ms. Cummings does not agree with the mental health experts that have examined Mr. McCarthy, and thus, urged the Board to make their decision based on his current state of mental health and current level of risk of dangerousness.

Juli Warzynski disagreed with the reports that evaluate Mr. McCarthy's risk of dangerousness to be low.

After discussion, a motion was made by James Clark, seconded by Susan Stevens and passed 3 – 0 to recess into executive session at 2:50 p.m. to discuss confidential information pursuant to A.R.S. § 38-431.03(A)(2).

After consideration in executive session, the Board reconvened in general session at 3:25 p.m.

In open session, Dr. Clark asked ASH staff to have the Board's record include Mr. McCarthy's Seriously Mentally Ill (SMI) evaluation. Ms. Wray said that she initiated the SMI evaluation process so that Mr. McCarthy can access the services he might be entitled to during his transition into the community. Dr. Clark asked if the Board were to vote in favor of conditional release, would ASH consider a modification to the proposed conditional release plan to increase the number of passes and time in which they must be completed, and ASH staff agreed.

After discussion, a motion was made by James Clark, seconded by Susan Stevens approve Walter Grey McCarthy for conditional release to Arizona State Hospital, Phase one, Level one, and adopt the conditional release treatment plan, as amended to eight (8) passes over 180 days, based on the evidence presented by the Arizona State Hospital's treatment team, that Walter McCarthy's mental disease or defect is in stable remission and he is not dangerous if he remains a resident of the Arizona State Hospital and is compliant with the terms of conditional release and the treatment plan presented today.

Discussion, Amendment and Approval of Modifications to Conditional Release to the Community Orders

Wayne Charles Phifer, PSRB No. 09-09

Concetta Williams, Medical Manager at AHCCCS, was teleconferenced into the hearing.

Ms. Shapiro informed Ms. Williams that the hearing would be continued since neither Mr. Phifer nor his attorney informed her if they consented to the proposed changes.

A motion was made by Susan Stevens, seconded by Paul O'Connell and passed 3 – 0 to continue this matter for one month.

Dolores Chavez, PSRB No. 01-12

Charles Holmes, PSRB No. 01-18

John Michael Lewis, Jr., PSRB No. 08-04

Michael Gene Robinson, PSRB No. 10-07

Raul Armando Placencio, PSRB No. 12-02

A motion was made by James Clark, seconded by Paul O'Connell and passed 3 – 0 to approve the proposed amendments to the terms of conditional release for these individuals.

Julian Lockhart, PSRB No. 07-16

Joseph Sinkovich, PSRB No. 98-09

Charles Edward Smith, Jr., PSRB No. 08-05

After discussion, a motion was made by James Clark, seconded by Susan Stevens and passed 3 – 0 to approve the proposed amendments to the terms of conditional release for these individuals.

Tahum Garland, PSRB No. 02-04

Ruben James Murray, PSRB No. 06-21

A motion was made by James Clark, seconded by Susan Stevens and passed 3 – 0 to continue these matters to next month.

Paula Christine Hughes-Riccio, PSRB No. 11-04

A motion was made by James Clark, seconded by Susan Stevens and passed 3 – 0 to approve the amendments to the terms of conditional release, as modified for Ms. Hughes-Riccio.

Christopher William Lambeth, PSRB No. 07-06

A motion was made by James Clark, seconded by Susan Stevens and passed 3 – 0 to approve the proposed amendments to the terms of conditional release for Mr. Lambeth.

Charles Vahnmiddlestate, PSRB No. 00-17

Jamarall Jordan, PSRB No. 04-01

A motion was made by Susan Stevens, seconded by Paul O’Connell and passed 3 – 0 to continue these matters to next month.

Discussion, Consideration and Possible Action Related to:

Placing language on the Notices of Hearings and/or the Agendas indicating that motions to continue shall be submitted in writing and noticed to all parties a set period of time prior to a hearing.

Dr. Clark explained that this proposal originated when an expert witness was present and was unable to testify due to a motion to continue during the hearing. Dr. Clark believes that the Board is the arbiter of whether to continue a hearing based on the presence or absence of good cause. Discussion was held around administrative challenges this might pose if the Board adopted such a policy. The Board agreed that, while they understand the reason for the proposal, the issue is too rare to adopt such a policy at this time.

Verbal update from the Board’s Attorney regarding Isaac Bonelli, PSRB Case No. 03-01.

Mr. Raine said his update is minimal but he will be following up with the Pima County Attorney’s Office as to their offer of assistance in extraditing Mr. Bonelli. Mr. Raine

explained the Board's *Waiver of Extradition* that each person consents to when discharged from ASH. The Board reset this matter for next month.

Whether PSRB reports related to a previously vacated hearing shall be included in the Board's materials.

Ms. Shapiro placed this item on the agenda because, during the course of meeting preparation, the question came up as to whether a previously written report is evidence when the hearing for which the report was written was vacated. Mr. Raine opined that, if the report is available, it should be included in the Board's materials so a full picture of the matter is presented. Mr. Caputo pointed out that it might be problematic if the Board made a decision based upon a document that was never the official position of the State Hospital. Further, he said if an application for a hearing is withdrawn, so is the report. Mr. Raine concurred with regard to the official position of ASH. Extensive discussion ensued among the Board members, Board staff, Mr. Caputo, Dr. Patel and Ms. Wray. At its conclusion, the Board decided that the report should not be included in the Board's materials and Board staff shall add a watermark to the report that indicates the hearing was vacated.

Verbal update from Dr. Clark regarding his meeting with ASH.

Dr. Clark informed the other Board members of the meeting he had with Ms. Shapiro and Steven Dingle, ASH Medical Director, and other ASH officials. His goal was to improve communication and remove administrative bottlenecks. Dr. Clark detailed his talking points and believes the meeting was very positive.

Discuss, Amend And Approve Minutes:

General Session Minutes from the January 31, 2017, meeting:

After amendments, a motion was made by James Clark, seconded by Paul O'Connell and passed 3 – 0 to approve the draft minutes, as amended.

Executive Session Minutes from the January 31, 2017, meeting:

A motion was made by James Clark, seconded by Paul O'Connell and passed 3 – 0 to approve the draft minutes, as drafted.

General Session Minutes from the February 24, 2017, meeting:

A motion was made by James Clark, seconded by Susan Stevens and passed 3 – 0 to approve the draft minutes, as amended.

Executive Session Minutes from the February 24, 2017, meeting:

A motion was made by James Clark, seconded by Susan Stevens and passed 3 – 0 to approve the draft minutes, as amended.

Adjournment:

The meeting was adjourned at 4:18 p.m.