



Psychiatric Security Review Board

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ARIZONA STATE PSYCHIATRIC SECURITY REVIEW BOARD GENERAL SESSION MINUTES January 27, 2017

Members:

James Clark, M.D., Chairperson
Susan Stevens, Esq. ☞
Julio Ramirez, Ph.D. ☺
Paul O'Connell

☺ Arrived at 1:16 p.m.
☞ Left at 3:36 p.m.

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:

Ashleigh Henneberger, AHCCCS
Bernardo Garcia, Esq.
Beth Dolobowsky, ASH
Bonnie Romo
Cassandra Bryant
Christie Saracino, ASH
Cyndi Froehlich, ASH
Dana Owens, Esq., Yavapai Deputy County
Attorney
Danielle Watson, ASH
David Rudolph Ortiz
Dawood Mulla, M.D., ASH

Diane Rodriguez, ASH
Donna L. Robinson, Ph.D.
Garrett Whiting, Esq., Apache Deputy
County Attorney
Gary "Nic" Christiansen
Gregory Honig, Esq., AHCCCS
Hassan Cruz
James Boesch
Jeff Stolzolsky
Jill Manahan
Johanna Lippert, N.P., ASH
John Metcalf

John W. Blischak, Esq.
Jon Strickler, Cenpatico
Juli Warzynski, Esq., Maricopa Deputy
County Attorney
Julie Jackson, ASH
Keith Reinhardt, ASH
Kennedy Klagge, Esq., Yavapai County
Public Defender ☎
Kim Schereck
Kimberly Boersema, ASH
Laurinda Cumming
Lindsey Arendy, ASH
Manuel Grey, La Frontera-Empact
Medinah Cross
Nora Greer, Esq.
Olga Placencio
Parker Manahan
Patrina Yazzie, MMIC
Paul Knost, Esq., Office of the Public
Advocate

Raul Placencio
Rebecca Romero, ASH
Rickey Watson, Esq., Office of the Public
Advocate
Rudy Romo
Samantha Miller, ASH
Sandra Carr, Esq.
Sariya Okoye
Sean Hughes
Stacey Heard, Esq., Pinal Deputy County
Attorney
Stefanie Jones-Campbell, Esq., Pinal County
Public Defender
Susan Sanchez
Susannah Holm
Tammy Wray, Esq., Maricopa County
Public Defender
Timothy Haines, HHWAZ
Victoria Johnson

☎ Participated Telephonically

Call To Order

James Clark called the meeting to order at 1:09 p.m., read the Executive Session Confidentiality Statement and swore in individuals who anticipated testifying.

Statutory Hearings

Zachary Stuart Sutton – PSRB No. 13-02

Zachary Sutton was present with his attorney, Kennedy Klagge, who appeared telephonically. The statutory hearing was held from 1:11 p.m. to 1:15 p.m. pursuant to Arizona Revised Statutes (A.R.S.) § 13-3994(H). There was no recommendation at that time.

Kennedy Klagge, Yavapai County Public Defender and Dana Owens, Yavapai Deputy County Attorney were teleconferenced into the hearing. Dr. Clark summarized that Mr. Sutton came before the Board for a two-year hearing and there was no recommendation for release or conditional release.

A motion was made by Susan Stevens, seconded by Paul O'Connell and passed 3 – 0 to deny conditional release for Zachary Sutton based on the evidence presented by the Arizona State Hospital's treatment team, that Mr. Sutton 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. Zachary Sutton shall remain committed in the Arizona State Hospital.

After the vote, Dana Owens shared that the victim's family opposes release. Zachary Sutton said that he wished address the victim's mother, and said he has grown from his past struggles. He briefly mentioned his plea agreement and attempts for post-conviction relief.

Robert Allen Laber – PSRB No. 09-10

Robert Laber was present with his attorney, Kennedy Klagge, who was present telephonically. The statutory hearing was held from 1:16 p.m. to 1:20 p.m. pursuant to A.R.S. § 13-3994(H). ASH recommended conditional release to the State Hospital: phase one; levels one and two.

Ms. Klagge shared that Mr. Laber is in agreement with the recommendation for conditional release and asked that the PSRB adopt it. Johanna Lippert shared that Mr. Laber receives no psychiatric PRNs. Dr. Clark stated that the latest risk assessment was written after Mr. Laber's last angry outburst and asked if the opinion of Mr. Laber's appropriateness for conditional release had changed since then. James Holmes, Ph.D. was present and stated that there was no change in his opinion. Dr. Clark said the risk assessment mentions that Mr. Laber tends to minimize the offense and makes demeaning comments and asked if this is ongoing. Ms. Lippert stated these are identified as treatment issues, have been addressed and Mr. Laber has made progress.

A motion was made by Paul O'Connell seconded by Susan Stevens and passed 3 – 0 to approve Robert Laber for conditional release to Arizona State Hospital, phase one, levels one and two, and adopt the conditional release treatment plan, based on the evidence presented by the Arizona State Hospital's treatment team, that Mr. Laber'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.

Julio Ramirez abstained from voting because he was not present for the discussion.

Kevin Kline Peralta – PSRB No. 13-01

Kevin Peralta was present with his attorney, John W. Blischak. The statutory hearing was held from 1:21 p.m. to 1:23 p.m. pursuant to A.R.S. § 13-3994(H). There was no recommendation at that time.

Mr. Blischak said he has not had time to meet with this client and requested, in good faith, that the PSRB continue the hearing to next month.

A motion was made by James Clark, seconded by Paul O’Connell and passed 4 – 0 to approve the request to continue the matter to the February meeting.

Sariya Iman Okoye – PSRB No. 13-13

Sariya Okoye was present with her attorney, John W. Blischak. The statutory hearing was held from 1:24 p.m. to 1:26 p.m. pursuant to A.R.S. § 13-3994(J). The PSRB’s jurisdiction over Ms. Okoye ends on January 31, 2017.

Dr. Clark stated that Dr. Mittleman is not recommending court-ordered evaluation for civil commitment. Mr. Blischak shared that Ms. Okoye is gainfully employed and fully compliant with treatment. Ms. Okoye discussed her plan to remain in stable remission and reintegrate fully into the community after the PSRB’s jurisdiction ends.

A motion was made by Julio Ramirez, seconded by Susan Stevens and passed 4 – 0 that, based on the evidence presented, the PSRB allow its jurisdiction over Sariya Okoye to expire without ordering the Pima County Attorney to initiate civil commitment proceedings.

David Rudolph Ortiz – PSRB No. 12-07

David Ortiz was present with his attorney, John W. Blischak. The statutory hearing was held from 1:27 p.m. to 1:28 p.m. pursuant to A.R.S. § 13-3994(J). The PSRB’s jurisdiction over Mr. Ortiz ends on March 3, 2017.

Dr. Clark explained that ASH is recommending court-ordered evaluation for civil commitment. Mr. Blischak said his client is aware of the recommendation.

A motion was made by Susan Stevens, seconded by Julio Ramirez and passed 4 – 0 that the PSRB order the Pima County Attorney to initiate civil commitment proceedings for David Ortiz 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. Ortiz to the custody of an appropriate law-enforcement agency for transportation up to five days prior to the PSRB’s jurisdiction expiration date.

David Henry Metcalf – PSRB No. 16-01

David Metcalf was present with his attorney, Bernardo Garcia. The statutory hearing was held from 1:29 p.m. to 1:36 p.m. pursuant to A.R.S. § 13-3994(J). The PSRB's jurisdiction over Mr. Metcalf ends on March 3, 2017.

Dr. Clark explained that ASH is not recommending court-ordered evaluation for civil commitment because Mr. Metcalf will be entering a treatment facility in Colorado upon the end of his jurisdiction under the PSRB. Mr. Garcia stated that Mr. Metcalf is not an Arizona resident and happened to be passing through when the index crime occurred. Mr. Metcalf's father will be accompanying him by flight to Colorado to enter a facility that provides medication management and vocational training and asked that the Board allow the term to expire without further action. Mr. Caputo stated that the facility Mr. Metcalf will be going to is an inpatient facility and discussion was held around whether the victims opted into the Board's post-conviction notification process.

After discussion, a motion was made by Julio Ramirez that the PSRB allow its jurisdiction over David Metcalf expire without ordering the Yuma County Attorney to initiate civil commitment proceedings based on the evidence presented and to allow the Arizona State Hospital's treatment team to conditionally release Mr. Metcalf to a residential setting of his choice in the community. Dr. Clark asked Dr. Ramirez if he would accept an amendment to the motion that included mention that the Board notes that Mr. Metcalf will voluntarily commit himself to a facility in Colorado for additional treatment. After discussion, Dr. Ramirez accepted the amendment to his motion and it passed 4 – 0.

Louis Hurtado Tapia – PSRB No. 10-11

Louis Tapia was present with his attorney, Nora Greer. The statutory hearing was held from 1:37 p.m. to 1:42 p.m. pursuant to A.R.S. § 13-3994(H). ASH recommended conditional release to the community.

Nora Greer stated that his client supports the plan and requests that the Board accept the recommendation. Mr. Tapia told the Board where he would be residing. Dr. Clark asked what the differences in monitoring are between the case manager, care manager and ASH conditional release coordinator. Jon Strickler from Cenpatico was present, was sworn in and stated that the new reporting procedures through AHCCCS are such that he would be serving as conditional release coordinator for the Cenpatico population and discussed his duties. He further explained that he is termed as the care manager, and the case manager refers to the recovery coach at the outpatient provider.

A motion was made by Paul O'Connell, seconded by Julio Ramirez and passed 4 – 0 that the PSRB approve Louis Tapia for conditional release to the community, and adopt the conditional release treatment plan, based on the evidence presented by the Arizona State Hospital's Treatment Team, that Mr. Tapia's mental disease or defect is in stable remission and he is not dangerous if he resides in the facility specified in the conditional release treatment plan and remains compliant with the terms of conditional release and the treatment plan presented today.

Jon Morris Wallace – PSRB No. 05-18

Jon Wallace was present with his attorney, Nora Greer. The statutory hearing was held from 1:43 p.m. to 1:54 p.m. pursuant to A.R.S. § 13-3994(H). ASH recommended conditional release to the State Hospital: phase one, modified level two.

Johanna Lippert explained that the recommendation is a modified level two with a one staff per three patient ratio for an indefinite period of time. Ms. Greer shared her client's request that the Board adopt the recommendation; and understands the great privilege he has been given to be off the grounds of ASH. Ms. Lippert informed the Board that Mr. Wallace takes no PRN medications and he is assessed regularly for new delusions and has shown none thus far. Thomas Raine recommended the Board move into executive session to discuss clinical information.

A motion was made by James Clark, seconded by Susan Stevens and passed 4 – 0 to recess into executive session at 1:46 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 1:53 p.m.

In general session, a motion was made by Julio Ramirez, seconded by Paul O'Connell and passed 4 – 0 to approve Jon Wallace for conditional release to Arizona State Hospital, phase one, modified level two, and adopt the conditional release treatment plan, based on the evidence presented by the Arizona State Hospital's treatment team, that Mr. Wallace'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.

Susannah K. Holm – PSRB No. 14-01

Susannah K. Holm was present with her attorney, Sandra Carr. The statutory hearing was held from 1:55 p.m. to 1:59 p.m. pursuant to A.R.S. § 13-3994(H) and (M). ASH recommended revocation of conditional release to the Hospital.

Sandra Carr asked the Board to deny the recommendation and argued that Ms. Holm had a couple of outbursts in November; however she had outbursts prior to being granted levels one through three in August. Ms. Holm has been stable since November and asks that the Board maintain levels one and two of conditional release or assess risk prior to revoking. Discussion was held about how soon Ms. Holm would be able to come before the Board again.

A motion was made by Susan Stevens, seconded by James Clark and passed 4 – 0 to revoke Conditional Release for Susannah Holm based on the evidence presented by the ASH treatment team that Ms. Holm’s mental condition has deteriorated and is no longer in stable remission requiring that she remain at the Arizona State Hospital for further evaluation and treatment.

Susan Lynn Sanchez – PSRB No. 11-02

Susan Sanchez was present with her attorney, Stefanie Jones-Campbell. The statutory hearing was held from 2:00 p.m. to 2:31 p.m. pursuant to A.R.S. § 13-3994(J). The PSRB’s jurisdiction over Ms. Sanchez ends on February 15, 2017.

Dr. Clark said that Antonio Carr, M.D. recommended court-ordered evaluation for civil commitment based on standard criteria for Persistently or Acutely Disabled (PAD). Ms. Jones-Campbell argued that it is unprecedented that someone as successful in the community as Mr. Sanchez is was recommended for civil commitment. Ms. Jones-Campbell asked if the Board does vote today for a court ordered evaluation, that it be done on an outpatient basis. Ms. Sanchez’s parents were in attendance and shared they do not understand why Dr. Carr would make this recommendation. Ms. Shapiro mentioned that Timothy Haines, Chief Clinical Officer of Horizon Health and Wellness (HHWAZ), was present to answer any questions the Board may have about Dr. Carr’s report.

Dr. Clark listed standard criteria for PAD and stated that some of these factors are in Ms. Sanchez’s history. Dr. Clark read from a risk assessment completed in November of 2013 wherein it stated that “the greatest risk for re-offense will occur once her sentence has expired and PSRB staff are no longer legally mandated to participate in her supervision.”

Ms. Jones-Campbell gave a brief history of the events leading to the index crime, and pointed out that Ms. Sanchez repeatedly sought help prior to committing it. This is an important point when the Board is considering Ms. Sanchez's ability to self-identify issues and follow through with treatment.

Ms. Sanchez addressed the Board and recounted her consistent stability throughout her stay at ASH and in the community. She discussed her community involvement and fundraising, her goal to train as a peer support and the methods she employs to remain medication-compliant. Ms. Sanchez also provides daily care to her ailing parents and son who is ill. Stacey Heard from the Pinal County Attorney's Office was present and argued that she is familiar with this case since the crime was committed, and said Ms. Sanchez presents very differently than she did at the time it occurred. Her office staffed this case and is not sure what Dr. Carr's recommendation is based upon but will abide by any Board order. Mr. O'Connell asked Mr. Haines if it was customary for a psychiatrist to recommend civil commitment when he or she has never met with the patient.

Timothy Haines was sworn in and said it is not customary, but received a letter from PSRB staff asking for his opinion and provided it based on a review of records. Dr. Ramirez questioned the language in the report stating it was an "evaluation" and opined that it was simply a review of records. Ms. Shapiro mentioned that the request for a report sent to Dr. Carr contained the words "written evaluation" and suggested that Dr. Carr is likely mirroring that language in his written report.

A motion was made by Julio Ramirez, seconded by Susan Sanchez and passed 4 – 0 to recess into executive session at 2:19 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 2:30 p.m.

In general session, a motion was made by Julio Ramirez, seconded by Susan Sanchez and passed 4 – 0 that the PSRB allow its jurisdiction over Susan Sanchez expire without ordering the Pinal County Attorney to initiate civil commitment proceedings based on the evidence presented.

Raul Armando Placencio – PSRB No. 12-02

Raul Placencio was present with his attorney, Stefanie Jones-Campbell. The statutory hearing was held from 2:32 p.m. to 2:37 p.m. pursuant to A.R.S. § 13-3994(H). Mr. Placencio requested independent living.

Ms. Jones-Campbell said Mr. Placencio was allowed to reside with his mother in a retirement community for six months. Since the end of that time is approaching and he would now like to live independently. He has continued to do well and is in stable remission.

Manuel Grey from La-Frontera-Empact was present and confirmed that the outpatient treatment team is in support of independent living. Mr. Placencio shared that he takes his medication independently and regularly, takes peer support classes and works as a peer support at the MARC Center. He can move into an apartment on February 5th if the Board approves. Discussion was held around individual therapy and frequency of case manager contact. Dr. Ramirez asked Mr. Placencio what losses he would incur when he moves from her place and he said that he would miss his mother but will be there weekly for family visits.

A motion was made by Julio Ramirez, seconded by Susan Stevens and passed 4 – 0 to approve Mr. Placencio's request to live independently.

Jill Fraley Manahan – PSRB No. 09-10

Jill Manahan was present with her attorneys, Rickey Watson and Paul Knost. The statutory hearing was held from 2:38 p.m. to 2:56 p.m. pursuant to A.R.S. § 13-3994(H). ASH recommended conditional release to the Hospital: phase two; levels three and four.

Mr. Knost said they concur with the recommendation and requested the Board approve it. He pointed out that Ms. Manahan has had 63 successful passes off Hospital grounds and has completed her 9th step in her AA recovery process. Parker Manahan, Ms. Manahan's son, was sworn in and testified that his mother is doing well and requested that the Board approve the recommendation. He looks forward to with visiting his mother in a place other than ASH.

Kim Scherek testified that she has known Ms. Manahan for about four years through AA recovery and said she has never met anyone who works the program so dilligently.

A motion was made by James Clark, seconded by Susan Sanchez and passed 4 – 0 to recess into executive session at 2:43 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 2:54 p.m.

In general session, a motion was made by Paul O'Connell, seconded by Julio Ramirez and passed 4 – 0 that the PSRB approve Jill Manahan for conditional release to Arizona State

Hospital, phase two, levels three and four, and adopt the conditional release treatment plan, based on the evidence presented by the Arizona State Hospital's treatment team, that Ms. Manahan'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.

Walter Gray McCarthy – PSRB No. 10-13

Walter McCarthy was present with his attorney, Tammy Wray. The statutory hearing was held from 2:57 p.m. to 3:09 p.m. pursuant to A.R.S. § 13-3994(H). ASH recommended conditional release to the Hospital: phase one; levels one and two.

A motion was made by James Clark, seconded by Susan Stevens and passed 4 – 0 to recess into executive session at 2:58 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 3:02 p.m.

In general session, Juli Warzynski requested that the Board continue the hearing because she did not have time to review the risk assessment. Tammy Wray objected to the motion to continue because two experts were present, as well as Mr. McCarthy's sister and sponsor, and they anticipated addressing the Board. Ms. Warzynski pointed out that the surviving victim was also in attendance at this and every other hearing on this matter and she opined that the frequency of hearings appear to be excessive.

Ms. Wray said that the conclusion reached by Dr. Robinson is no different than conclusions reached by prior experts. Ms. Wray added that Dr. Robinson is not available until March.

After discussion, a motion was made by James Clark to postpone to March. After discussion, Susan Stevens seconded the motion and it passed 3 – 0.

Julio Ramirez abstained from the vote because he will not be in attendance.

Discussion, Consideration and Possible Action Related to:

Update from Steven Dingle, Chief Medical Officer of ASH, regarding which hospital records accompany a patient who has been referred to court ordered evaluation:

Mr. Caputo shared that Steven Dingle was called away from the meeting. The Board chose to defer this matter until he could participate.

Executive session for legal advice on Board voting procedures:

A motion was made by James Clark, seconded by Susan Stevens and passed 4 – 0 to recess into executive session at 3:11 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 3:15 p.m.

Update from Steven Dingle, Chief Medical Officer of ASH, regarding which hospital records accompany a patient who has been referred to court ordered evaluation:

In general session, Dr. Clark summarized that Steven Dingle, Chief Medical Officer of ASH, was present and the Board wished to hear from him as to which records are generally provided to an evaluating facility after the PSRB orders a person to be evaluated for civil commitment when jurisdiction ends. Dr. Dingle stated he has no idea why the Board wants to know this. Dr. Clark said that in the recent past, a few status reports from outpatient treatment facilities could not comment on levels of risk because they lacked the appropriate historical records. Dr. Dingle said that ASH sends discharge data sheets, discharge summaries, and a month's worth of progress notes. Lindsey Arendt added that this includes psychiatric assessments and psychosocial assessments. Dr. Clark asked if a person has a history of chronicity that includes relapse, court-ordered treatment or failure under supervision and they have been in the Hospital for, say, ten years, but over the last six months the patient has been well, how would ASH communicate that information to another provider? Dr. Dingle said that discharge is a process that includes many staffings with the RBHAs. It's not a single point of transfer but rather a dynamic process that occurs over many years.

Transition of oversight of persons who are on conditional release in the community from ASH to AHCCCS:

Dr. Dingle said the State Hospital has not been completing home visits over the last month or two unless it was deemed necessary. He added that ASH will cease all conditional release coordination duties for titled and Seriously Mentally Ill (SMI) individuals by the end of February. Gregory Honig, from the legal department at Arizona Health Care Cost Containment System (AHCCCS), was present and shared that the amendments to the conditional release plans should be a simple change, substantively. The challenge is administrative because of the amount of moving parts, but should be fairly easy to accomplish by the early part of February. His understanding of the amendments are such that

certain language shall be changed to indicate that the RBHAs will assume monitoring of individuals on conditional release in the community. Ashleigh Henneberger from AHCCCS was present and added that the changes requested by the Board's executive director to the monthly report are currently being reviewed by the Policy and Contracts division. Mr. Raine asked, since the State Hospital is ceasing supervision at the end of the February, who will be tasked with revising the conditional release plans and presenting them to Ms. Shapiro so the Board can properly notice all parties prior to adopting the amendments. Gregory Honig said that he does not think the amendments fall primarily on AHCCCS since AHCCCS was not initially involved. He noted that if the reporting structure is changing to the RBHAs then those individuals and ASH should be involved since they have an interest. Louis Caputo said he thinks the amendments should come from AHCCCS since ASH will no longer have oversight. Dr. Dingle said ASH will not amend a plan that holds another agency accountable. Mr. Honig said that he, Mr. Raine and Mr. Caputo could sit down for an hour and amend the plans.

Update from Thomas Raine regarding PSRB Case No. 03-01: Isaac Bonelli:

A motion was made by James Clark, seconded by Julio Ramirez and passed 4 – 0 to recess into executive session at 3:27 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 3:35 p.m.

In general session, the Board placed this matter on the February agenda.

The Board took a break from 3:36 p.m. to 3:38 p.m.

Board Election of Chairman and Vice-Chairman:

After discussion, a motion was made by Julio Ramirez, seconded by Paul O'Connell and passed 3 – 0 to nominate James Clark as Chairman. Dr. Clark accepted the nomination.

The PSRB deferred the vote of Vice-Chairman to the February meeting.

Jaime Shapiro updated the PSRB that she spoke with the Governor's office about the Board seat vacancies. She was able to speak to a policy advisor who iterated that the Governor's office is committed to filling the vacancies as soon as possible.

Discuss, Amend And Approve Minutes:

General Session Minutes from the December 16, 2016, meeting:

After discussion, a motion was made by Paul O'Connell, seconded by Julio Ramirez and passed 3 – 0 to approve the general session minutes, as amended.

Executive Session Minutes from the December 16, 2016, meeting:

A motion was made by James Clark, seconded by Julio Ramirez and passed 3 – 0 to approve the executive session minutes, as written.

Adjournment

The meeting was adjourned at 3:51 p.m.