



Psychiatric Security Review Board

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ARIZONA STATE PSYCHIATRIC SECURITY REVIEW BOARD OPEN SESSION MINUTES July 28, 2017

Members:

James P. Clark, M.D., Chairperson
Susan Stevens, Esq.
Paul O'Connell
Chandrika Shankar, M.D. ☞
Michael J. Klemens, Ph.D.

☞ Left at 2:52 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:

Akhere Okojie, ASH
Andrew Falick, Esq., Yavapai Deputy
Public Defender ☞
Andrew J. Blischak, Esq.
Calvin Spencer
Charles VahnMiddlestate
Cole Arigoni, MMIC
Cyndi Froehlich, ASH
Dana Katz
Daniel St. Germain, ASH
Dawood Mulla, M.D., ASH

Diane Rodriguez, ASH
Dustin C. Cooks, MARC Center
Gracie Verduzco
Jandely Eich, ASH
Jeff Trollinger
Jillian Bachman-Underhill, Esq., Yuma
County Deputy Public Defender ☞
Joe Gibeadeh, @Work Staffing
Johanna Lippert, N.P., ASH
Juli Warzynski, Esq., Maricopa Deputy
County Attorney

Julie Jackson, ASH
June Comroe, Maricopa County Public
Fiduciary
Justin Lepley, ASH
Kenny Wylie, ASH
Lasa Christianson
Lauren Soulier, Cenpatico
Lindsey Arendt, ASH
Lydia Dawson, ASH
Lydia Pedrego, Maricopa County Public
Fiduciary
Manuel Gray, La Frontera
Manuel Velasquez
Mary Ann Bishop ☎

Mary Kralovec ☎
Maya Heck, ASH
Michael J. Politi, Esq., Yuma County
Assistant Legal Defender ☎
Nicole Floyd, ASH
Nora Greer, Esq.
Robert J. Trebilcock, Esq.
Ryan Spear, ASH
Sharon Ashcroft
Stevie Willis, La Frontera
Tammy Wray, Esq., Maricopa County
Deputy Public Defender
Tara Beth Cunningham, ASH

☎ Participated Telephonically

Call To Order:

James P. Clark called the meeting to order at 1:03 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 Arizona Revised Statutes (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.

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

Jordan Jamarall, PSRB No. 04-01

Charles Vahnmiddlestate, PSRB No. 00-17

Andrew J. Blischak was present on behalf of the assigned attorney, John W. Blischak. He informed the Board that his clients are aware of the change and waived their personal appearance at that time.

A motion was made by James P. Clark, seconded by Susan Stevens and passed unanimously to strike the language, “face-to-face contact” from the Conditional Release to the Community Orders for Mr. Jordan and Mr. Vahnmiddlestate.

Statutory Hearings:

Clifford Andrew Katz – PSRB No. 15-07

Clifford Katz was present with his attorney, Andrew Falick, who appeared on behalf of assigned attorney, Kennedy C. Klagge. The statutory hearing was held from 1:06 p.m. to 1:11 p.m. pursuant to A.R.S. § 13-3994(H). ASH recommended Conditional Release to the Hospital: Phases Two and Three, Levels Three through Six.

Andrew Falick was teleconferenced into the hearing. Jaime Shapiro pointed out a typographical error on the proposed conditional release plan and recommended an amendment to which the Board and ASH staff agreed. Dr. Clark inquired as to why ASH recommended both Phases Two and Three and Dr. Patel explained that Mr. Katz has an excellent support system, has been in stable remission since his admission, and the treatment team saw no reason not to make the recommendation.

A motion was made by Michael J. Klemens, seconded by Paul O’Connell and passed unanimously to approve Clifford Andrew Katz for conditional release to Arizona State Hospital, Phases Two and Three, Levels Three through Six, and adopt the conditional release treatment plan as amended, based on the evidence presented by the Arizona State Hospital’s treatment team, that Clifford Katz’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.

Calvin Spencer – PSRB No. 15-10

Calvin Spencer was present with his attorney, Jillian Bachman-Underhill, who appeared telephonically. The statutory hearing was held from 1:12 p.m. to 1:22 p.m. pursuant to A.R.S. § 13-3994(H). There was no recommendation at that time.

Jillian Bachman-Underhill was teleconferenced into the hearing. Dr. Klemens asked Mr. Spencer why he chose not to attend group therapies regularly and Ms. Bachman-Underhill advised her client not to speak at that time.

A motion was made by James P. Clark, seconded by Susan Stevens and passed unanimously to recess into executive session at 1:14 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 open session at 1:20 p.m.

In open session, a motion was made by Susan Stevens, seconded by Paul O'Connell and passed unanimously to deny conditional release for Calvin Spencer based on the evidence presented by the Arizona State Hospital's treatment team, that Mr. Spencer 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. Calvin Spencer shall remain committed to the Arizona State Hospital.

Tyler Jay David Tallant – PSRB No. 14-08

Tyler Tallant was present with his attorney, Andrew Blischak, who appeared on behalf of assigned attorney, John W. Blischak. The statutory hearing was held from 1:23 p.m. to 2:01 p.m. pursuant to A.R.S. § 13-3994(H). ASH recommended Conditional Release to the State Hospital: Phase Two, Levels Three and Four.

Andrew J. Blischak said that he gave Mr. Tallant a copy of the report, and that Mr. Tallant wishes to move through the levels of conditional release.

A motion was made by Chandrika Shankar, seconded by Susan Stevens and passed unanimously to recess into executive session at 1:26 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 open session at 1:43 p.m.

In open session, a motion was made by Chandrika Shankar to approve Tyler Tallant 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 Tyler Tallant'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.

Dr. Clark offered an amendment that Dr. Shankar's motion to include that the Arizona State Hospital staff notify the victim when Mr. Tallant would be going off the grounds of ASH. Mr. Caputo objected to the amendment because it would place ASH outside of its statutory authority.

The amended motion was seconded by Susan Stevens and it passed unanimously.

Ms. Shapiro asked the Board if they wanted to confer with their attorney in executive session.

A motion was made by James P. Clark, seconded by Paul O'Connell and passed unanimously to recess into executive session at 1:47 p.m. to obtain legal advice pursuant to A.R.S. § 38-431.03(A)(3).

In open session, Paul O'Connell asked the ASH treatment team if it was possible to designate an inclusion zone for the GPS device that Mr. Tallant will be required to wear when he is off Hospital grounds. Mr. Raine added that PSRB recognizes that it is not standard for ASH staff to notify victims when a patient is on a pass and in the interest of victim's request to do so, the PSRB wants to find a way to allay the victim's concerns. Mr. Caputo was not sure of the specifics of GPS surveillance and Dr. Patel said that ASH is willing to limit Mr. Tallant's passes to Maricopa County.

A motion was made by Chandrika Shankar, seconded by Paul O'Connell and passed unanimously to modify the previous motion to strike the requirement for ASH to notify the victim when the patient is off-grounds and to set a limit for Mr. Tallant's off grounds passes to Maricopa County.

Faraz Ahmad – PSRB No. 00-11

Faraz Ahmad was not present and his attorney, Andrew Blischak, who appeared on behalf of assigned attorney, John W. Blischak, waived his presence. The statutory hearing was held from 2:02 p.m. to 2:03 p.m. pursuant to A.R.S. § 13-3994(H). There was no recommendation.

Andrew Blischak said that, given that there was no recommendation, Mr. Ahmad's presence was not required and requested that the Board continue without him. Mr. Blischak said Mr. Ahmad was aware that there is no recommendation for privileges. Susan Stevens asked if there was a need for the Board to make a motion to revoke his previously attained level of conditional release. Mr. Raine advised that as long as the motion is clear that a patient is no longer in stable remission, then the motion to deny would be sufficient.

A motion was made by Susan Stevens, seconded by Chandrika Shankar and passed unanimously to deny conditional release for Faraz Ahmad based on the evidence presented by the Arizona State Hospital's treatment team, that Mr. Ahmad 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. Faraz Ahmad

shall remain committed to the Arizona State Hospital. Ms. Stevens added for clarification, that Mr. Ahmad had no levels of conditional release.

Enoch Lamumba Boyd – PSRB No. 15-03

Enoch Boyd was present with his attorney, Andrew Blischak, who appeared on behalf of assigned attorney, John W. Blischak. The statutory hearing was held from 2:04 p.m. to 2:09 p.m. pursuant to A.R.S. § 13-3994(J). ASH recommended an evaluation for civil commitment upon expiration of the PSRB's jurisdiction on September 11, 2017.

Dr. Clark asked if Mr. Boyd would be entered into a database as prohibited from possessing weapons. Discussion was held and ultimately, Mr. Raine advised that the Board is limited today in either ordering an evaluation for civil commitment or not.

A motion was made by Susan Stevens, seconded by Chandrika Shankar and passed unanimously to order the Pima County Attorney to initiate civil commitment proceedings for Enoch Boyd 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. Boyd to the custody of an appropriate law enforcement agency for transportation up to five days prior to the PSRB's jurisdiction expiration date.

Gracie Moses Verduzco – PSRB No. 01-13

Gracie Verduzco was present with her attorney, Nora Greer. The statutory hearing was held from 2:10 p.m. to 2:13 p.m. pursuant to A.R.S. § 13-3994(H). There was no recommendation.

Ms. Greer said Ms. Verduzco wanted the Board to know that she is waking up with bruises and a few photocopied pictures were submitted by Ms. Verduzco to the PSRB for their review. Ms. Greer added that Ms. Verduzco does not fully agree with the report. Ms. Verduzco said that she is dying and wishes to die with her family and that she is not a danger to anyone.

A motion was made by Chandrika Shankar, seconded by Susan Stevens and passed unanimously to deny conditional release for Gracie Verduzco based on the evidence presented by the Arizona State Hospital's treatment team, that Ms. Verduzco did not prove by clear and convincing evidence that she no longer suffers from a mental disease or defect, that the mental disease or defect is in stable remission and that she is no longer dangerous. Ms. Verduzco shall remain committed to the Arizona State Hospital.

Alfred Harris Brown – PSRB No. 14-06

Alfred Brown was present with his attorney, Robert J. Trebilcock. The statutory hearing was held from 2:14 p.m. to 2:21 p.m. pursuant to A.R.S. § 13-3994(J). ASH recommended an evaluation for civil commitment upon expiration of the PSRB's jurisdiction on September 3, 2017.

Robert J. Trebilcock shared that Mr. Brown understood that the final decision of civil commitment may be in the hands of the court; and that Mr. Brown is looking forward to moving to Chicago in the near future.

A motion was made by James P. Clark, seconded by Susan Stevens and passed unanimously to recess into executive session at 2:15 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 open session at 2:20 p.m.

In open session, a motion was made by Paul O'Connell, seconded by Susan Stevens and passed unanimously to order the Cochise County Attorney to initiate civil commitment proceedings for Alfred Brown 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. Brown to the custody of an appropriate law enforcement agency for transportation up to five days prior to the PSRB's jurisdiction expiration date.

Marian John Kozimor – PSRB No. 05-12

Marian John Kozimor was present with his attorney, Tammy Wray. The statutory hearing was held from 2:23 p.m. to 2:34 p.m. pursuant to A.R.S. § 13-3994(J). ASH did not recommend an evaluation for civil commitment upon expiration of the PSRB's jurisdiction on August 20, 2017.

June Comroe, Mr. Kozimor's guardian, was present and testified that, as of that day, she was not informed of a discharge plan that was appropriate or safe for Mr. Kozimor. An Arizona Long Term Care (ALTCS) application was still pending and so she requested that Mr. Kozimor be admitted to the civil campus of ASH, however, Mercy Maricopa informed her that was not an option. She added that, as his guardian, she holds mental health powers but that does not give her the ability to admit him to a facility so she requested that the PSRB order an evaluation for civil commitment. Dr. Clark asked Dr. Chavez how likely it was that Mr. Kozimor will be admitted to a secure nursing facility and Dr. Chavez said that it's the Regional Behavioral Health Authority's (RBHA) responsibility to do so. Ms. Comroe illustrated her point by reiterating that the RBHA does not have the resources and the only

option to find an appropriate level of care is if the ALTCS application is approved. Additionally, she did not know if the medical evaluation had been completed. From there, it can take weeks to months for an approval and the PSRB's jurisdiction expires in less than 30 days. Ms. Comroe said that there was an appropriate discharge plan in place for his safety and well-being. Dr. Shankar asked if there was a bed being held for him on the civil campus and Ms. Comroe said she never got a direct answer from ASH; that she was informed ASH was at its cap.

Dr. Patel said ASH is not expecting that Mr. Kozimor will be admitted to the civil campus and that Mr. Kozimor is Mercy Maricopa's issue. Juli Warzynski said that the Maricopa County Attorney's Office would like to see Mr. Kozimor ordered to undergo civil commitment proceedings and at that point they would be responsible for placing him. Dr. Klemens shared his alarm that the State Hospital made a recommendation that Mr. Kozimor be either discharged to a secure nursing facility or committed to ASH's civil campus knowing neither of those things would materialize.

A motion was made by Susan Stevens, seconded by Chandrika Shankar and passed unanimously to order the Maricopa County Attorney to initiate civil commitment proceedings for Marian Kozimor 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 Me. Kozimor to the custody of an appropriate law enforcement agency for transportation up to five days prior to the PSRB's jurisdiction expiration date.

Cynthia Hernandez – PSRB No. 05-12

Cynthia Hernandez was present with her attorney, Tammy Wray. The statutory hearing was held from 2:35 p.m. to 2:48 p.m. pursuant to A.R.S. § 13-3994(H). ASH recommended Conditional Release to the State Hospital: Phase Two; Levels Three and Four.

Ms. Wray shared that her client has done exceptionally well in her progress since the index crime and asks that the Board approve the recommendation with the amendment that Hope Lives be added to the list of pass supervisors.

A motion was made by James P. Clark, seconded by Susan Stevens and passed unanimously to recess into executive session at 2:38 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 open session at 2:46 p.m.

In open session, a motion was made by Michael Klemens, seconded by Susan Stevens and passed unanimously to approve Cynthia Hernandez for conditional release to Arizona State Hospital, Phase Two, Levels Three and Four, and adopt the conditional release treatment plan, with the amendment to add Hope Lives as a pass supervisor, based on the evidence presented by the Arizona State Hospital's treatment team, that Ms. Hernandez'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.

Eunice Julia Garcia – PSRB No. 07-03

Eunice Garcia was present with her attorney, Tammy Wray. The statutory hearing was held from 2:49 p.m. to 2:51 p.m. pursuant to A.R.S. § 13-3994(J). ASH recommended a court ordered evaluation for civil commitment upon the PSRB's jurisdiction on September 2, 2017.

After brief discussion, a motion was made by Chandrika Shankar, seconded by Susan Stevens and passed unanimously to order the Maricopa County Attorney to initiate civil commitment proceedings for Eunice Julia Garcia 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 Ms. Garcia to the custody of an appropriate law-enforcement agency for transportation up to five days prior to the PSRB's jurisdiction expiration date.

Chandrika Shankar left the meeting at 2:52 p.m.

Paul Adam Velasquez – PSRB No. 07-02

Paul Velasquez was present with his attorney, Tammy Wray. The statutory hearing was held from 2:52 p.m. to 2:56 p.m. pursuant to A.R.S. § 13-3994(J). ASH recommended a court ordered evaluation for civil commitment upon the PSRB's jurisdiction on August 21, 2017.

Ms. Wray mentioned that Mr. Velasquez's father was present and is a great support for his son. Mr. Velasquez is working toward living with his dad.

After discussion, a motion was made by Susan Stevens, seconded by Michael Klemens and passed 4 – 0 to order the Maricopa County Attorney to initiate civil commitment proceedings for Paul Adam Velasquez 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. Velasquez to the custody of an appropriate law enforcement agency for transportation up to five days prior to the PSRB's jurisdiction expiration date.

Raphael Nyagong Wani – PSRB No. 08-06

Raphael Wani was present with his attorney, Tammy Wray. The statutory hearing was held from 2:57 p.m. to 3:16 p.m. pursuant to A.R.S. § 13-3994(H). The outpatient treatment team recommended an amendment to the current conditional release plan to allow Mr. Wani to have contact with his son, who was a victim of the crime.

Ms. Wray explained that Mr. Wani made an inadvertent contact with his eldest son, who was a victim of the crime, and the outpatient treatment team would like the Board to allow Mr. Wani to continue to have contact with his son.

After discussion, a motion was made by Michael Klemens, seconded by Susan Stevens and passed 4 – 0 to recess into executive session at 3:06 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 open session at 3:11 p.m.

In open session, a motion was made by James P. Clark, seconded by Paul O’Connell and passed 4 – 0 to amend the conditional release plan to allow that Mr. Wani have contact with his son and for the outpatient treatment team to report back to the PSRB if any issues arise. After discussion, Paul O’Connell seconded the motion and it passed 4 – 0.

The PSRB took a break from 3:18 p.m. to 3:21 p.m.

Robert James Sanchez – PSRB No. 11-10

Robert Sanchez was not present and his attorney, Michael J. Politi, who appeared telephonically, waived his presence. The statutory hearing was held from 3:17 p.m. to 3:20 p.m. pursuant to A.R.S. § 13-3994(H) and (M). ASH recommended that Mr. Sanchez’s levels of conditional release to ASH be revoked.

Michael J. Politi waived his client’s presence and stated that Mr. Sanchez had no additional input or argument, other than that he did not want to lose his levels of conditional release; he will endeavor to continue to participate in treatment.

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

Nomination and Election of a Vice-Chairperson

This matter was deferred to next month.

Discussion, Consideration and Possible Action Related to:

Per Diem Billing Procedures and Update from Susan Stevens regarding her discussion with Senator Yee.

Ms. Stevens said that it would be politically difficult to amend the Board's enabling statutes to change Board members' *per diem* amount. Senator Yee suggested that a good source of information might be the Arizona Department of Administration. Extensive discussion ensued among Board members and staff as to new a billing policy, Board members' preparation time and document review, the Auditor General's upcoming report, the amount of time it generally takes for Board staff to prepare the materials, and moving toward more electronic-based Board materials. The Board ultimately decided to stay on the current course until the Auditor General's report is issued.

Update from the Board's Attorney Regarding a Draft Letter of Notification of the PSRB's Jurisdiction

Mr. Raine outlined the draft notice of jurisdiction and its intent to answer to questions that arose when a PSRB patient was transferred to the Arizona Department of Corrections. The Board approved of the draft notice.

Reviewing PSRB Statutes for Proposed Amendment or Clarification

Ms. Shapiro asked if the PSRB can form a non-quorum sub-committee for law review. Ms. Raine said the Board can meet in this manner but it should be noticed and posted so the public has an opportunity to participate. Ms. Shapiro asked, if it's a non-quorum meeting, are minutes to be kept. Mr. Raine said his first inclination is yes, but will research further.

Discussion, Amendment and Approval of Minutes:

Open session minutes from the June 30, 2017, meeting

Executive session minutes from the June 30, 2017, meeting

This item was deferred to next month.

Identification of Future Agenda Items

Dr. Clark said he would call Ms. Shapiro and discuss his future agenda items. Ms. Shapiro listed the following:

- Non-quorum meeting minutes
- Psychologists supervising patient units at ASH
- Law Review

Adjournment

The Board meeting adjourned at 3:50 p.m.