



Psychiatric Security Review Board

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ARIZONA STATE PSYCHIATRIC SECURITY REVIEW BOARD OPEN SESSION MINUTES September 29, 2017

Members:

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

☞ Absent

Assistant Attorney General:

Thomas Raine, Esq., for the Psychiatric Security Review Board

Staff:

Jaime L. Shapiro, Executive Director

Guests Present and/or Participating:

Aaron Nelson, L.M.S.W., ASH
Allyson Friestleben, ASH
Brenda Wise, AHCCCS
Brian Bequette, La Frontera
Carolyn Keyser
Charles VahnMiddlestate Edmark
Christopher Lambeth
Cole Arigoni, PSRB Care Coordinator,
Mercy Maricopa Integrated Care
Dana Owens, Esq., Yavapai Deputy County
Attorney ☞
David Joslyn, ASH
Dawood Mulla, M.D., ASH

Derek Adams, NAU
James Schoppmann, Esq., Mohave Deputy
County Attorney ☞
Jandely Eich, L.M.S.W., ASH
Janette Corral, Maricopa County
Jerry Hernandez, Esq., Yuma County
Deputy Public Defender
Jessica Lamar, ASH
Johanna Lippert, N.P., ASH
John Gioiu, MARC Community Residential
John W. Blischak, Esq., Defense Counsel
Juli Jackson, L.M.S.W., ASH
Kaitlyn Carr

Kennedy C. Klagge, Esq., Yavapai County
Public Defender ☎
Kristen Lambeth
Louis Caputo, Esq., Assistant Attorney
General for the Arizona State Hospital
Madison Gardner, R.T., ASH
Manuel Gray, La Frontera
Nicole Floyd, M.D.
Nicole Williams
Rebecca Gardner, ASH
Ronald Keyser
Sandra Carr, Esq., Defense Counsel
Samantha O'Neal, AHCCCS

Scott Norman, L.M.S.W., ASH
Sheridyn Miller, Psy.D., ASH
Stacey Heard, Esq., Pinal Deputy County
Attorney ☎
Stefanie Jones-Campbell, Esq., Pinal County
Deputy Public Defender
Stevie Willis, La Frontera
Summer Schneider, Psy.D., ASH
Tammy Wray, Esq., Maricopa County
Deputy Public Defender
Telly Rivenburgh, Cenpatico Integrated
Care
Victoria Valdez, ASH

☎ Participated Telephonically

Call To Order:

James P. Clark called the meeting to order at 1:05 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.

Statutory Hearings:

Peter Rice Sherman – PSRB No. 10-03

Peter Sherman was present with his attorney, Stefanie Jones-Campbell. The statutory hearing was held from 1:07 p.m. to 1:27 p.m. pursuant to A.R.S. § 13-3994(H) and (M) and 31-502(A)(5). ASH recommended revocation of conditional release to the community and conditional release to the Hospital, phase 1, level 2.

Stacey Heard, Deputy Pinal County Attorney, was teleconferenced into the hearing.

Last month, Mr. Sherman was approved for conditional release to the community, bypassing phase three of conditional release to the Hospital. Prior to his discharge, Mr. Sherman was

off-grounds of the Hospital and breached the boundaries of the surveillance area on four occasions.

Stefanie Jones-Campbell stated Mr. Sherman waives his right to an evidentiary hearing and submits to the information before the Board. Details of the breach were discussed and Mr. Sherman read from a prepared statement. Ms. Jones-Campbell pointed out that it was clear that Mr. Sherman had not mentally decompensated.

A motion was made by James Clark, seconded by Susan Stevens and passed 4 – 0 to recess into executive session at 1:12 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 1:22 p.m.

In open session, Ms. Heard was teleconferenced back into the hearing and, on behalf of the Pinal County Attorney's Office, she stated that it is her interest that the public and Mr. Sherman are well-protected, and she hopes that Mr. Sherman is able to access additional resources to assist him in the future.

A motion was made by Susan Stevens, seconded by Michael Klemens and passed 4 – 0 to revoke the Conditional Release for Peter Sherman based on the evidence presented by the ASH treatment team that Peter Sherman violated the terms of his conditional release and that Mr. Sherman remain at the Arizona State Hospital for further evaluation and treatment; and that the PSRB approve Mr. Sherman for conditional release to Arizona State Hospital, phase 1, level 2, and adopt the conditional release treatment plan, based on the evidence presented by the Arizona State Hospital's treatment team, that Mr. Sherman'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.

Christopher J. Martell – PSRB No. 14-05

Christopher Martell was present with his attorney, Kennedy C. Klagge, who appeared telephonically. The statutory hearing was held from 1:28 p.m. to 1:37 p.m. pursuant to A.R.S. § 13-3994(H). ASH recommended conditional release to the Hospital, phase one, levels one and two.

Kennedy C. Klagge was teleconferenced into the hearing and she urged the Board to approve the recommendations.

A motion was made by James Clark, seconded by Susan Stevens and passed 4 – 0 to recess into executive session at 1:30 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 1:35 p.m.

In open session, a motion was made by Michael Klemens, seconded by Chandrika Shankar and passed 4 – 0 to approve Christopher Martell for conditional release to Arizona State Hospital, phase 1, 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. Martell'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.

Richard Dean Widman – PSRB No. 14-05

Richard Widman was present with his attorney, Kennedy C. Klagge, who appeared telephonically. The statutory hearing was held from 1:39 p.m. to 1:47 p.m. pursuant to A.R.S. § 13-3994(J). ASH recommended expiration of the Board's jurisdiction with no further action.

Kennedy Klagge, Yavapai County Public Defender and Dana Owens, Yavapai Deputy County Attorney, were teleconferenced into the hearing.

Ms. Klagge stated that Mr. Widman is grateful for the treatment he has received and plans to stay in Phoenix area and transition into a structured living facility and address his additional legal obligations. Discussion was held about Mr. Widman's expiration date occurring on a Sunday, and it was agreed that Mr. Widman could be discharged up to seven (7) days prior to the PSRB's expiration date.

Cole Arigoni, PSRB Coordinator of Mercy Maricopa Integrated Care (MMIC), was sworn in and assured the Board that placement will be available to Mr. Widman upon his discharge from ASH.

A motion was made by James Clark, seconded by Susan Stevens and passed 4 – 0 for the PSRB to allow its jurisdiction over Richard Dean Widman expire without ordering the Yavapai 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. Widman to a residential setting in the community up to seven (7) days prior to the PSRB's jurisdiction expiration date.

Blake Brown – PSRB No. 15-09

Blake Brown was present with his attorney, Jerry Hernandez. The statutory hearing was held from 1:48 p.m. to 1:51 p.m. pursuant to A.R.S. § 13-3994(H). ASH recommended conditional release to the Hospital, Phase One, Levels One and Two.

Dr. Clark noted that the record indicates that Mr. Brown has made significant progress in a positive direction. Ron Keiser, Mr. Brown's grandfather, addressed the PSRB and stated Mr. Brown's mother was deeply sorry that she could not attend the hearing today. He shared that Mr. Brown's family provides strong support and respectfully urges the Board to accept the recommendation. It was added that the Special Classification Committee (SCC) agreed with the ASH treatment team's recommendation and that Mr. Brown is attending college through correspondence.

A motion was made by Susan Stevens, seconded by Michael Klemens and passed 4 – 0 to approve Blake Brown 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. Brown'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.

Michael Anthony Allen – PSRB No. 13-03

Michael Allen was present with his attorney, Jerry Hernandez. The statutory hearing was held from 1:52 p.m. to 1:56 p.m. pursuant to A.R.S. § 13-3994(H). ASH recommended no status change.

A motion was made by Susan Stevens, seconded by Chandrika Shankar and passed 4 – 0 to maintain the same level of conditional release and conditional release treatment plan based on the evidence presented by the Arizona State Hospital's treatment team, that Mr. Allen'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 already in place.

Christopher William Lambeth – PSRB No. 07-06

Christopher Lambeth was present with his attorney, John Blischak. The statutory hearing was held from 1:57 p.m. to 2:08 p.m. pursuant to A.R.S. § 13-3994(H). The outpatient treatment team recommended a reduction in residential supervision to a flex-care plus.

Telly Rivenburgh, ASH Liaison for Cenpatico Integrated Care, explained that Mr. Lambeth currently resides in a twenty-four (24) hour group home and the flex-care plus is identified as apartment living with a common kitchen. The facility is staffed between the hours of 7:00 a.m. to 10 p.m. daily where therapy, medications and visits are monitored.

Dr. Klemens shared that he was unclear about the sentence clarification in the record. Mr. Raine said that the PSRB received instruction from the Pima County Superior Court that a person who is sentenced twenty-five years to life can petition the Executive Board of Clemency after twenty-five years for potential release. If the petition is granted, the Board of Executive Clemency should notify the PSRB.

Kristen Lambeth, Mr. Lambeth's sister, was sworn in and testified that Mr. Lambeth has progressed phenomenally, is proactive in treatment and recovery. He works, is physically active, and manages his activities of daily living such as cooking and laundry. She believes it would be beneficial to her brother if the Board granted the outpatient treatment team's recommendation. Brian Beckette, Mr. Lambeth's case manager, was sworn in and affirmed Mr. Lambeth's progress through treatment.

A motion was made by Michael Klemens, seconded by Chandrika Shankar and passed 4 – 0 to approve the outpatient treatment team's recommendation for a reduction in residential supervision from a twenty-four hour facility to a flex-care plus facility based on the evidence presented by the outpatient treatment team that Mr. Lambeth continues to be in stable remission and he is not a danger to himself or others at this time.

Susannah K. Holm – PSRB No. 14-01

Susannah K. Holm was present with her attorney, Sandra Carr. The statutory hearing was held from 2:09 p.m. to 2:31 p.m. pursuant to A.R.S. § 13-3994(H). ASH recommended conditional release to the Hospital, phase one, levels one and two.

James Schoppmann, Mohave Deputy County Attorney, was teleconferenced into the hearing.

Ms. Carr stated that, as the reports reflect, Ms. Holm is doing significantly better; she is more participative in her treatment and has made some healthy lifestyle changes.

A motion was made by James Clark, seconded by Susan Stevens and passed 4 – 0 to recess into executive session at 2:16 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 2:29 p.m.

In open session, Mr. Schoppmann was teleconferenced into the hearing.

Dr. Clark wanted the record to reflect that Ms. Holm is in stable remission, is not undergoing a medication change and that an amended report stipulating to that will be sent to the Board.

A motion was made by Chandrika Shankar, seconded by Michael Klemens and passed 4 – 0 to approve Susannah Holm 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 Ms. Holm’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.

John David Reber – PSRB No. 13-06

John Reber was present with his attorney, John W. Blischak. The statutory hearing was held from 2:32 p.m. to 2:39 p.m. pursuant to A.R.S. § 13-3994(H). ASH recommended Mr. Reber continues on his current levels of conditional release to the Hospital, phase one, levels one and two.

Mr. Blischak requested that the Board continue the hearing to next month because he wanted to consult with Dr. Schneider about her report to the Board but later withdrew the request after discussion.

Dr. Clark mentioned that the current conditional release plan does not specify a number of passes to complete but mentions that a certain number of passes must be completed within a time-frame of sixty (60) days. After discussion, the ASH treatment team agreed to resubmit a clarified conditional release plan. To that point, Ms. Stevens stated that the report says that Mr. Reber does not suffer from a mental disease or defect and asked for clarification on that as well. The ASH treatment team agreed that an amended report should be submitted.

A motion was made by James Clark, seconded by Susan Stevens and passed 4 – 0 to continue the matter to October so the ASH treatment team can submit an updated conditional release plan and report.

The Board took a break from 2:40 p.m. to 2:44 p.m.

Michael Ray McGuffin – PSRB No. 14-01

Michael McGuffin was present with his attorney, John W. Blischak. The statutory hearing was held from 2:45 p.m. to 3:20 p.m. pursuant to A.R.S. § 13-3994(H). ASH recommended conditional release to the Hospital, phase two, level four.

Dr. Mulla shared that the treatment team is recommending a modification from eight (8) hour passes, twice a month, with his sister to one twelve (12) hour pass per month. It was clarified that Mr. McGuffin has no other community support other than his sister. The ASH treatment team added that they wish to strike that last sentence of the report.

After discussion, a motion was made by Michael Klemens to approve the recommendation to modify Mr. McGuffin's conditional release plan to allow for one twelve (12) hour pass a month. The motion failed for lack of a second.

After discussion, a motion was made by James Clark to deny the request for an increase in privileges and the motion died.

A motion was made by James Clark, seconded by Susan Stevens and passed 4 – 0 to recess into executive session at 2:56 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 3:13 p.m.

In open session, Mr. McGuffin shared what activities he enjoys with his sister during his off-grounds passes. Dr. Klemens said it seems it would be more appropriate to modify level three instead of increasing since Mr. McGuffin would actually be off-grounds for less time. Dr. Mulla concurred.

A motion was made by Michael Klemens to modify Mr. McGuffin's conditional release treatment plan to allow for one, ten (10) hour pass monthly with his sister, as recommended by the Arizona State Hospital's treatment team, that Mr. McGuffin's mental disease or defect is in stable remission and he is not dangerous if remains a resident of the State Hospital and his compliant with the terms of conditional release treatment plan amended today.

After discussion, Chandrika Shankar seconded the motion and it passed 3 – 1.

James Clark opposed the motion citing the seriousness of the offense, propensity to reoffend, public safety and protection and prior supervision failure; he questions the wisdom of delegating supervision and monitoring to Mr. McGuffin's sister.

Charles Robert VahnMiddlestate Edmark – PSRB No. 00-17

Charles VahnMiddlestate Edmark was present with his attorney, John W. Blischak. The statutory hearing was held from 3:21 p.m. to 3:42 p.m. pursuant to A.R.S. § 13-3994(H). The outpatient treatment team recommended a reduction in residential supervision from a twenty-four (24) hour to a 23.9 flex-care.

Mr. Blischak described his family's personal relationship with Mr. Edmark and urged the Board to approve the recommendation.

A motion was made by Michael Klemens, seconded by Susan Stevens and passed 4 – 0 to recess into executive session at 3:22 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 3:38 p.m.

In open session, a motion was made by James Clark to approve the request for a reduction in residential supervision from a twenty-four (24) hour to a 23.9-hour flex-care facility. The motion failed for a lack of second.

Dr. Shankar stated that she is concerned about the recent medication issue and believes Mr. VahnMiddlestate Edmark should remain at the current level of monitoring. Ms. Stevens concurred.

A motion was made by James Clark, seconded by Susan Stevens and passed 4 – 0 that there be no change in status.

Discussion was held about when the law allows the outpatient treatment team to make another recommendation.

Amado Salas – PSRB No. 02-06

Amado Salas was present with his attorney, Tammy Wray. The statutory hearing was held from 3:43 p.m. to 3:59 p.m. pursuant to A.R.S. § 13-3994(H). ASH recommended conditional release to the Hospital, phase one, levels one and two.

Ms. Stevens pointed out that the report states that Mr. Salas does not suffer from a mental disease or defect but is in stable remission and asked for clarification. Ms. Lippert clarified that Mr. Salas does have a mental disease or defect and it is in stable remission.

Ms. Shapiro stated that she had a question about the report and Dr. Clark asked the Board if they have questions first. Dr. Klemens asked Mr. Salas about his relationship with his children and Mr. Salas said it was good. The children visit and they have frequent phone calls. It was clarified that the SCC concurred with the recommendation and Mr. Salas takes no *pro re nata* (PRN) medications. Mr. Salas is not currently in therapy, as recommended in the risk assessment, because the Hospital has had some staffing changes, but he is waiting to be assigned a therapist.

Ms. Shapiro shared that she read conflicting information within the submitted materials. Ms. Wray said that she was not sure if Ms. Shapiro could ask questions and, if so, it should be in executive session. Mr. Raine agreed and suggested that it might be better for her to raise an issue to the Board prior to a meeting. Ms. Wray said that if there was additional information to what the Board was presented, it should be raised in open session. Ms. Shapiro clarified that she misspoke when she said she had a question; she should have said that she wanted to point out information already in the Board's materials. Discussion ensued about the nature of Ms. Shapiro's comments.

A motion was made by Chandrika Shankar, seconded by Susan Stevens and passed 4 – 0 to recess into executive session to discuss confidential information pursuant to A.R.S. § 38-431.03(A)(2).

Mr. Caputo objected to the motion to recess into executive session stating that substantive questions should come from Board members, and he would advise the Hospital staff not to respond. Mr. Raine agreed with Mr. Caputo's assessment of the role of the Board but, to the extent that Ms. Shapiro wants to point out something in the record that the Board may have overlooked, that is appropriate use of her skills and knowledge. He advised Ms. Shapiro not to ask a substantive question or to weigh in on the appropriateness of a Board decision. Ms. Wray objected to Ms. Shapiro raising substantive matters, weighing or evaluating evidence or the lack thereof, and if the Board wants a more substantive objection based on statute she can prepare to do that. Ms. Wray urged the Board to deliberate the Hospital's recommendation. Dr. Shankar asked how this would be any different from Ms. Shapiro requesting clarification for the State Hospital or clinical team about the materials they have submitted. Ms. Wray stated she is basing her objection on what she said initially. Mr. Caputo objected once again to any substantive comments that Ms. Shapiro may have. Dr. Clark asked Ms. Shapiro if the comments were substantive. Ms. Shapiro said it was and Dr. Clark said he "kind of" agreed with Mr. Caputo and Ms. Wray in that the Board is delegated to raise clinical issues and that is the Board's function. Mr. Raine reiterated that it was unclear whether the question was clinical.

The Board took a break from 2:00 p.m. to 2:04 p.m.

Dr. Clark restated the motion to go into executive session. Ms. Wray said that she and Mr. Caputo had a discussion over the break and they suggest that Ms. Shapiro write down her comments, she and Mr. Caputo can review them and the Board can decide. Mr. Raine and Ms. Stevens agreed. After discussion, the Board decided to address the issue administratively outside of Mr. Salas' hearing.

The motion to recess into executive session was withdrawn.

A motion was made by James Clark, seconded by Chandrika Shankar and passed 4 – 0 to approve Amado Salas 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. Salas'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.

Discussion, Consideration and Possible Action Related to:

Review of the Templates for Requests for PSRB Reports

This item was deferred to a future meeting.

PSRB Reports

Dr. Clark said he wanted to discuss the following issue with the ASH Chief Medical Officer: since some of the PSRB reports were being written by attending psychologists, he wanted the psychiatrist to review and approve them before being submitted to the PSRB. This was placed on the October agenda.

Pass Supervisors

Board members, Mr. Raine, ASH staff and Ms. Wray participated in a discussion regarding an issue raised by the ASH Chief Medical Officer whereby pass supervisors have had other people non-approved people in the car when picking up a patient from ASH to take them on a pass. This was placed on the October agenda.

Law Review Update

Dr. Clark said the meeting was "all over the place" with an overwhelming amount of input. Some of the discussions included clarifying A.R.S. § 13-3994(M) and adding administrative rules.

Discussion, Amendment and Approval of Minutes:

Open session minutes from the August 25, 2017, meeting.

Executive session minutes from the August 25, 2017, meeting

These items was deferred to October.

Identification of Future Agenda Items

The Board did not identify any additional future agenda items. Ms. Wray said that if the Board is going to define the Executive Director's role then she would like the Board to discuss it in open session. Dr. Clark said right now it's not the Board's role to define the role because the position is employed by the Arizona State Hospital.

Adjournment

The Board adjourned at 4:24 p.m.