



Psychiatric Security Review Board

150 N. 18th Ave., Suite 410
Phoenix, AZ 85007
Phone: 602-364-3061

DOUGLAS A. DUCEY, GOVERNOR
JAMES P. CLARK, M.D., CHAIRPERSON
www.azdhs.gov/psrb

ARIZONA STATE PSYCHIATRIC SECURITY REVIEW BOARD OPEN SESSION MINUTES

December 14, 2018

**PSRB Hearing Room
2500 E. Van Buren St.
Phoenix, AZ 85008**

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:

Alice Pickering, Psy.D., ASH	Jandely Eich, ASH
Andrew Blischak, Esq.	Kennedy C. Klagge, Esq. ☞
Brian Beckette, La Frontera-EMPACT	Laxman Patel, M.D., ASH
Charles Smith	Lina Bui, ASH
Cole Arigoni, Mercy Care	Lindsey Arendt, ASH
Dana Owens, Esq. ☞	Manuel Gray, La Frontera-EMPACT
Dolores Chavez	Natalie Williams, La Frontera Arizona ☞
Erin Cohen, Esq.	Nicole Floyd, ASH
Gabriella Reyes, ASH	Raymond Geiser, Esq.
Hector Villa, ASH	Raymond Vaca, Esq.
James Holmes, Psy.D., ASH	Rebeca Johnson, Esq. ☞

Stephanie Kwakye, D.O., ASH
Stephen Jaffe
Summer Schneider, Psy.D., ASH
Susana Rigau, ASH

Tammy Brown
Tammy Wray, Esq.
Telly Rivenburgh, Arizona Complete Health

☎ Participated by Telephone

Call To Order:

James 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.

Ratification of Previous Action on November 16, 2018, Pursuant to A.R.S. § 38-431.05:

Ratification of the emergency hearing, pursuant to A.R.S. § 38-431.02(D), added to the November 16, 2018, agenda less than 24 hours prior to the start of the meeting:

Dr. Clark explained that PSRB added an item to the November agenda based on information Board staff received that a law enforcement agency was not able to arrange transport for a guilty except insane (GEI) individual in the five days allotted. In November, the Board voted to modify its October motion to allow for six days for transport.

A motion was made by James Clark, seconded by Susan Stevens, and passed 4 – 0 to ratify the November 16, 2018, action.

Statutory Hearings:

Zachary Stuart Sutton– PSRB No. 13-02

Zachary Sutton was present in person and through counsel, Kennedy C. Klagge, who appeared telephonically. The statutory hearing was held from 1:07 p.m. to 1:10 p.m. pursuant to A.R.S. § 13-3994(H). This was a two-year hearing and ASH had no recommendation.

Kennedy Klagge, defense counsel, and Dana Owens, Yavapai Deputy County Attorney, were teleconferenced into the hearing. Ms. Klagge noted that the report indicates that Mr. Sutton

is more participatory in treatment and has made progress when compared to the last report to the PSRB. Ms. Owens stated that the victim's family continues to be involved in the case.

A motion was made by Susan Stevens, seconded by Paul O'Connell, and passed 4 – 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 to the Arizona State Hospital.

Dolores Ruby Chavez – PSRB No. 01-12

Dolores Chavez was present with her attorney, Rebecca Johnson, who appeared telephonically. The statutory hearing was held from 1:11 p.m. to 1:19 p.m. pursuant to A.R.S. § 13-3994(H). The outpatient treatment team recommended a reduction in case management supervision.

Rebecca Johnson, defense counsel, and Natalie Williams, case manager, were teleconferenced into the hearing. Ms. Johnson noted that Ms. Chavez continues to do very well in the community and requests that the Board follow the treatment team's recommendation. Ms. Williams added that Ms. Chavez keeps all her scheduled appointments and the team supports the reduction in case management supervision.

A motion was made by Paul O'Connell, seconded by Susan Stevens, and passed 4 – 0 to modify Ms. Chavez's conditional release order to reduce face-to-face contact with her case manager from twice per month to once per month, alternating with weekly contact by phone.

Jorge Garcia Aceves – PSRB No. 17-01

Jorge Aceves was present with his attorney, Raymond Vaca. The statutory hearing was held from 1:20 p.m. to 1:26 p.m. pursuant to A.R.S. § 13-3994(H). This was an initial hearing continued from October and there was no recommendation.

Raymond Vaca, defense counsel, asked that, because the psychiatric report was dated in October, were there any amendments or new recommendations. Erin Cohen stated that Dr. Walayat was not present and Ms. Cohen understands that there were no updates or changes in Mr. Aceves's status. Ms. Stevens stated that she had questions about the report and would be open to continuing the hearing to allow time for Dr. Walayat to attend.

A motion was made by Susan Stevens, seconded by Michael Klemens, to continue the hearing to January for more information. Dr. Clark remarked that the report did not

comment on Mr. Aceves's insight and judgment, and does not mention resolution group attendance. Alice Pickering shared that she was a member of Mr. Aceves's treatment team and Dr. Clark swore her in. She then stated that treatment related questions should be deferred to the treating psychiatrist.

Dr. Clark called for the vote and the motion passed 4 – 0.

Tammy Lee Brown – PSRB No. 17-02

Tammy Brown was present with her attorney, Raymond Geiser. The statutory hearing was held from 1:27 p.m. to 1:29 p.m. pursuant to A.R.S. § 13-3994(H). This was an initial hearing and there was no recommendation.

Raymond Geiser stated that Ms. Brown will be having more contact with her family and has a plan to enroll in behavioral health services if she had the opportunity to be released from ASH.

A motion was made by Michael Klemens, seconded by Susan Stevens, and passed 4 – 0 to deny conditional release for Tammy Brown based on the evidence presented by the Arizona State Hospital's treatment team, that Ms. Brown 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. Tammy Brown shall remain committed to the Arizona State Hospital.

Ronald Michael Motisko – PSRB No. 13-05

Ronald Motisko was present with his attorney, Andrew J. Blischak, who appeared on behalf of assigned attorney, John. W. Blischak. The statutory hearing was held from 1:30 p.m. to 1:39 p.m. pursuant to A.R.S. § 13-3994(H). ASH recommended an increase in forensic privileges to phase one, level two.

Dr. Clark noted that Mr. Motisko seems to be doing well, and asked the treatment team why the number and duration of his passes on level two, as recommended by the treatment team, were shortened. James Holmes stated that the original plan approved in 2017 by the Special Classification Committee (SCC) was for 60 days, and the Board changed it to 180 days.

A motion was made by James Clark, seconded by Paul O'Connell, and passed 4 – 0 to recess into executive session at 1:32 p.m. to discuss confidential information pursuant to A.R.S. § 38-431.03(A)(2).

After discussion in executive session, the Board reconvened in open session at 1:38 p.m.

In open session, a motion was made by James Clark, seconded by Susan Stevens, and passed 4 – 0 to approve Ronald Motisko for conditional release to Arizona State Hospital, phase one, level two, and adopt the conditional release treatment plan as amended to a minimum of eight passes over 180 days, 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 amended today.

Benjamin Griffin Piette – PSRB No. 14-04

Benjamin Piette was present with his attorney, Andrew J. Blischak, who appeared on behalf of assigned attorney, John. W. Blischak. The statutory hearing was held from 1:40 p.m. to 1:43 p.m. pursuant to A.R.S. § 13-3994(J). The PSRB’s jurisdiction ends on January 24, 2019, and ASH recommended a court-ordered evaluation for civil commitment.

After brief discussion, a motion was made by Susan Stevens to order the County Attorney to initiate civil commitment proceedings for Benjamin Piette 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. Piette to the custody of an appropriate law-enforcement agency for transportation up to five days prior to the PSRB’s jurisdiction expiration date.

Ms. Shapiro asked Ms. Stevens to amend her motion to “five business days” in order to allow the Pima County Sheriff’s Department more time for transportation. Ms. Stevens amended her motion as such, Dr. Klemens seconded the amended motion and it passed 4 – 0.

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

Charles Smith was present with his attorney, Tammy Wray. The statutory hearing was held from 1:44 p.m. to 1:51 p.m. pursuant to A.R.S. § 13-3994(J). The PSRB’s jurisdiction ends on January 23, 2019, and the outpatient treatment team recommended expiration with no further action.

Ms. Wray stated that Mr. Smith is committed to maintaining his treatment and has several social supports.

After discussion, a motion was by James Clark, seconded by Susan Stevens, and passed 4 – 0 to recess into executive session at 1:45 p.m. to discuss confidential information pursuant to A.R.S. § 38-431.03(A)(2).

After discussion in executive session, the Board reconvened in open session at 1:50 p.m.

In open session, a motion was made by Susan Stevens, seconded by Michael Klemens, and passed 4 – 0 to allow its jurisdiction over Charles Smith expire without ordering the County Attorney to initiate civil commitment proceedings based on the evidence presented.

Aaron Jason Wallace – PSRB No. 11-07

Aaron Wallace was present with his attorney, Andrew J. Blischak, who appeared on behalf of assigned attorney, John. W. Blischak. The statutory hearing was held from 1:52 p.m. to 2:02 p.m. pursuant to A.R.S. § 13-3994(J). The PSRB's jurisdiction ends on January 24, 2019, and ASH recommended a court-ordered evaluation for civil commitment.

Mr. Blischak stated that Mr. Wallace is looking forward to being discharged from ASH to a less-restrictive setting with structure and counselling.

A motion was by James Clark, seconded by Susan Stevens, and passed 4 – 0 to recess into executive session at 1:54 p.m. to discuss confidential information pursuant to A.R.S. § 38-431.03(A)(2).

After discussion in executive session, the Board reconvened in open session at 1:59 p.m.

In open session, a motion was made by Paul O'Connell, seconded by Susan Stevens, and passed 4 – 0 to order the County Attorney to initiate civil commitment proceedings for Aaron Wallace 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. Wallace to the custody of an appropriate law-enforcement agency for transportation up to five business days prior to the PSRB's jurisdiction expiration date.

Andrew Robert Garcia – PSRB No. 11-07

Andrew Garcia was present with his attorney, Andrew J. Blischak, who appeared on behalf of assigned attorney, John. W. Blischak. The statutory hearing was held from 2:03 p.m. to 2:06 p.m. pursuant to A.R.S. § 13-3994(H). This was a two-year hearing and there was no recommendation.

A motion was made by Michael Klemens, seconded by Susan Stevens, and passed 4 – 0 to recess into executive session at 2:04 p.m. to discuss confidential information pursuant to A.R.S. § 38-431.03(A)(2).

After discussion in executive session, the Board reconvened in open session at 2:07 p.m.

In open session, a motion was made by Susan Stevens, seconded by Paul O'Connell, and passed 4 – 0 to deny conditional release for Andrew Garcia based on the evidence presented by the Arizona State Hospital's treatment team, that Mr. Garcia 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. Andrew Garcia shall remain committed to the Arizona State Hospital.

Tyler Jay David Tallant – PSRB No. 14-08

Tyler Tallant was present with his attorney, Andrew J. Blischak, who appeared on behalf of assigned attorney, John. W. Blischak. The statutory hearing was held from 2:07 p.m. to 2:13 p.m. pursuant to A.R.S. § 13-3994(H). ASH recommended an increase in off-grounds work hours from 40 to 50 hours per week.

Summer Schneider stated that the recommendation is an effort to give Mr. Tallant the best opportunity to reintegrate into society in a way that approximates the lifestyle he will be living. Discussion was held about the nature of Mr. Tallant's work, the Global Positioning System (GPS) device he wears when off ASH grounds, and victim contact restriction.

A motion was made by James Clark, seconded by Paul O'Connell, to approve the request to increase Mr. Tallant's off-grounds work hours to ten hours.

After discussion, Dr. Clark amended his motion to approve the request to increase Mr. Tallant's off-grounds work hours up to ten hours per week, based on the evidence presented that Mr. Tallant's mental disease or defect remains in stable remission and he is no longer dangerous. Paul O'Connell seconded the amended motion and it passed 4 – 0.

Discussion, Amendment and Approval of Minutes:

Open session minutes from the November 16, 2018, meeting:

After discussion, a motion was made by James Clark, seconded by Susan Stevens, and passed 3 – 0 – 1 to approve the open session minutes from the November 16, 2018, meeting, as amended.

Paul O'Connell abstained.

Executive session minutes from the November 16, 2018, meeting:

A motion was made by James Clark, seconded by Susan Stevens, and passed 4 – 0 to recess into executive session at 2:18 p.m. to discuss confidential information pursuant to A.R.S. § 38-431.03(A)(2).

After discussion in executive session, the Board reconvened in open session at 2:20 p.m.

In open session, a motion was made by Michael Klemens, seconded by Susan Stevens, and passed 3 – 0 – 1 to approve the executive session minutes from the November 16, 2018, meeting, as amended.

Paul O'Connell abstained.

Identification of Future Agenda Items:

- Secret Service Notification of a potential threat
- Executive Director's Report
- Auditor General's Report and implementation of recommendations

Adjournment:

The Board meeting was adjourned at 2:26 p.m.