



Psychiatric Security Review Board

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

ARIZONA STATE PSYCHIATRIC SECURITY REVIEW BOARD OPEN SESSION MINUTES March 30, 2018

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

Ⓡ Left at 4:28 p.m.

Assistant Attorney General:

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

Staff:

Jaime L. Shapiro, Executive Director

Guests Present and/or Participating:

Adrianna Malhi, Argosy University	Charles Smith
Amanda Brasil, ASH	Cole Arigoni, Mercy Maricopa Integrated Care
Angela Marvaez	Daviana Jimenez, ASH
Anna Branson, Arizona Center for Disability Law	David Joslyn, ASH
Ashley Blum, Esq., Maricopa County Deputy Public Defender	Dawood Mulla, M.D., ASH
Bradly Herman, ASH	Diane Wagner, ASH
Brian Bequette, La Frontera-EMPACT	Emmanuel Sonnia, Argosy University
Brian Canty ☞	Jandely Eich, ASH
Brian Kociszewski, AHCCCS	Johanna Lippert, ASH
	John W. Blischak, Esq.

Julie Jackson, L.M.S.W., ASH
Laura Udall, Esq. ☎
Lacey Croll, Argosy University
Leon Canty, III
Leon Canty, Jr. ☎
Lindsey Arendt, ASH
Manuel Gray, La Frontera-EMPACT
Nicole Floyd, ASH
Olivia Walliser, Argosy University
Paul Sayre, Tucson Police Department
Paula Perrera, Esq., Pima Deputy County
Attorney ☎
Penny Sterrett, Mercy Maricopa Integrated
Care
☎ Participated by Telephone

Quentin Brown, Mercy Maricopa Integrated
Care
Raphael Wani
Sergio B. Chavez, M.D., ASH
Stacey Heard, Esq., Pinal Deputy County
Attorney
Stefanie Jones-Campbell, Esq., Pinal Deputy
County Attorney
Steven Kwoh, M.D., ASH
Stevie Willis, La Frontera-EMPACT
Tammy Wray, Esq., Maricopa County
Deputy Public Defender
William Catana

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.

Statutory Hearings:

John David Reber – PSRB No. 13-06

John Reber was present with his attorney, John W. Blischak. The statutory hearing was held from 1:06 p.m. to 1:16 p.m. pursuant to Arizona Revised Statutes (A.R.S.) § 13-3994(H). ASH recommended expiration of the PSRB’s jurisdiction with no further action.

John W. Blischak urged the Board to follow the recommendation.

A motion was made by James Clark, seconded by Susan Stevens and passed 4 – 0 to recess into executive session at 1:07 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 1:16 p.m.

In open session, a motion was made by Susan Stevens, seconded by Paul O’Connell and passed 3 – 1 to allow its jurisdiction over John David Reber to expire without ordering the County Attorney to initiate civil commitment proceedings based on the evidence presented and to allow the Arizona State Hospital’s treatment team, and to conditionally release Mr. Reber to a residential setting in the community up to five days prior to the PSRB’s jurisdiction expiration date.

David Joshua Burstein – PSRB No. 16-02

David Burstein was present with his attorney, Kennedy C. Klagge. The statutory hearing was held from 1:17 p.m. to 1:20 p.m. pursuant to A.R.S. § 13-3994(H). There was no recommendation at that time.

Kennedy Klagge requested that the Board continue the hearing for 60 days. Ms. Klagge shared that she would like to consult with the defense attorney currently assigned to Mr. Burstein’s post-conviction relief case and to possibly obtain an independent evaluation prior to proceeding.

A motion was made by Paul O’Connell, seconded by Chandrika Shankar and passed 4 – 0 to continue the matter to the May meeting.

Peter Rice Sherman – PSRB No. 10-03

Peter Sherman was present with his attorney, Stefanie Jones-Campbell. The statutory hearing was held from 1:21 p.m. to 1:23 p.m. pursuant to A.R.S. § 13-3994(H). ASH recommended conditional release to the Hospital, phase two, levels three and four.

After brief discussion, a motion was made by Chandrika Shankar, seconded by Susan Stevens and passed 4 – 0 to approve Peter Sherman 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 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.

Kassandra Monique Toruga – PSRB No. 12-06

Kassandra Toruga was present with her attorney, Stefanie Jones-Campbell. The statutory hearing was held from 1:24 p.m. to 1:35 p.m. pursuant to A.R.S. § 13-3994(H). There was no recommendation at that time.

Ms. Jones-Campbell requested a 90 day continuance to give her office time to participate in staffings in order to better assess why Ms. Toruga is not moving through privilege levels. Ms. Jones-Campbell believes that the continuance would give her client an opportunity to plan for her upcoming transition into the community at the end of her sentence next year.

A motion was made by James Clark, seconded by Susan Stevens and passed 4 – 0 to recess into executive session at 1:27 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 1:34 p.m.

In open session, the Board deferred this matter until the attending psychiatrist was available to participate.

David Nickolas Delich – PSRB No. 12-09

David Delich was present with his attorney, Laura Udall, who appeared telephonically. The statutory hearing was held from 1:36 p.m. to 1:41 p.m. pursuant to A.R.S. § 13-3994(H). There was no recommendation at that time.

Paula Perrera, Pima Deputy County Attorney, and Laura Udall, Mr. Delich's defense counsel, were teleconferenced into the hearing.

Captain Paul Sayre from the Tucson Police Department was sworn in and requested the Board take note of the importance of this case to his agency.

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

Kassandra Monique Toruga – PSRB No. 12-06

Kassandra Toruga was present with her attorney, Stefanie Jones-Campbell. The statutory hearing was held from 1:42 p.m. to 1:48 p.m. pursuant to A.R.S. § 13-3994(H). There was no recommendation at that time.

A motion was made by James Clark, seconded by Susan Stevens and passed 4 – 0 to recess into executive session at 1:43 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 open session at 1:46 p.m.

In open session, Dr. Shankar asked if ASH could provide a risk assessment to the PSRB and Mr. Caputo stated he could not speculate on that.

A motion was made by Susan Stevens, seconded by Paul O’Connell and passed 4 – 0 to continue the hearing for 90 days with a request for ASH to provide an updated risk assessment.

Michael Lynn Steele – PSRB No. 09-08

Michael Steele was not present and his attorney, John W. Blischak, did not waive his presence. The statutory hearing was held from 1:49 p.m. to 2:00 p.m. pursuant to A.R.S. § 13-3994(H). There was no recommendation at that time.

Mr. Blischak stated he did not wish to waive his client’s presence and instead asked the Board to continue the matter for 30 days.

After discussion, a motion was made by James Clark, seconded by Susan Stevens and passed 4 – 0 to recess into executive session at 1:53 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 open session at 1:59 p.m.

In open session, a motion was made by Susan Stevens, seconded by Chandrika Shankar and passed 4 – 0 to deny the request to continue the matter.

A motion was made by Chandrika Shankar, seconded by Paul O’Connell and passed 4 – 0 to deny conditional release for Michael Steele, based on the evidence presented by the Arizona State Hospital’s treatment team that Mr. Steele 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. Steele shall remain committed to the Arizona State Hospital.

Christopher Shane Fortier – PSRB No. 15-05A

Christopher Fortier was present with his attorney, John W. Blischak. The statutory hearing was held from 2:01 p.m. to 2:07 p.m. pursuant to A.R.S. § 13-3994(H). ASH recommended conditional release to the Hospital, phase one, levels one and two.

After discussion, a motion was made by James Clark, seconded by Chandrika Shankar and passed 4 – 0 to recess into executive session at 2:02 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 2:06 p.m.

In open session, a motion was made by Paul O’Connell, seconded by Chandrika Shankar and passed 4 – 0 to approve Christopher Fortier 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. Fortier’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.

Charles Edward Smith, Jr. – PSRB No. 08-06

Charles Smith was present with his attorney, Tammy Wray. The statutory hearing was held from 2:08 p.m. to 2:13 p.m. pursuant to A.R.S. § 13-3994(H). Mr. Smith requested permission to travel outside of Arizona.

Tammy Wray shared that Mr. Smith is doing well and pointed out that his sentence ends in less than a year. Brian Beckette was sworn in and shared that the outpatient treatment team is in full support if Mr. Smith’s request.

A motion was made by Susan Stevens, seconded by Paul O’Connell and passed 4 – 0 to approve Mr. Smith to travel out-of-state as indicated in Josiah Nwaokwa’s recommendation.

Leon Milton Canty, III – PSRB No. 11-14

Leon Canty was present with his attorney, Tammy Wray. The statutory hearing was held from 2:14 p.m. to 2:33 p.m. pursuant to A.R.S. § 13-3994(H). Mr. Canty requested independent living.

Two members of Mr. Canty's family were teleconferenced into the hearing. Ms. Wray shared that Mr. Canty has been doing well while living in an eight-hour supervised residential setting for the past year and he has recently been promoted at his job.

After discussion, a motion was made by James Clark, seconded by Susan Stevens and passed 4 – 0 to recess into executive session at 2:17 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 2:31 p.m.

In open session, a motion was made by Susan Stevens, seconded by Paul O'Connell and passed 4 – 0 to approve the request for Mr. Canty to live independently, based on the evidence presented by the outpatient treatment team that Mr. Canty remains in stable remission and is not dangerous, and for the outpatient treatment team to have weekly face-to-face contact with Mr. Canty for the first three months.

Raphael Nyagong Wani – PSRB No. 08-05

Raphael Wani was present with his attorney, Tammy Wray. The statutory hearing was held from 2:34 p.m. to 2:55 p.m. pursuant to A.R.S. § 13-3994(H). Mr. Wani requested permission to travel outside of Arizona and independent living.

Tammy Wray shared that Mr. Wani has been in the community for about a year, works full time, has a lot of social support, and outlined Mr. Wani's travel plans. It was clarified that Mr. Wani is still followed by an Assertive Community Treatment (ACT) Team.

After discussion, a motion was made by James Clark, seconded by Susan Stevens and passed 4 – 0 to recess into executive session at 2:37 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 2:52 p.m.

In open session, a motion was made by James Clark, seconded by Susan Stevens and passed 4 – 0 to approve Mr. Wani's request to travel outside of Arizona as indicated on Amadu Konteh's report.

A motion was made by James Clark, seconded by Paul O'Connell and passed 4 – 0 to grant Mr. Wani's request for independent living, based on the evidence presented by the outpatient treatment team that Mr. Wani remains in stable remission and is not dangerous, that Mr. Wani will follow the current treatment plan, and will take his medication without monitoring.

Discussion, Consideration and Possible Action Related to:

A Presentation from the MMIC Housing Department Regarding Housing Services in Maricopa County:

Penny Sterrett, Quentin Brown, and Matthew Callahan, of Mercy Maricopa Integrated Care, gave the PSRB an informative overview of the various residential options available to MMIC members.

Adoption of Standard Conditions of Release:

Ms. Shapiro gave a brief overview of the Board's materials. After extensive discussion, the Board decided to add the checklist to the Board member's blue books, with a couple amendments, and to defer any further action to a future meeting. Board meeting length was discussed and it was decided to have quarterly business meetings to address administrative items.

Request for Reports Templates:

After discussion, the Board chose to have Dr. Clark and Ms. Shapiro incorporate and adopt Board members' and staff edits.

Staff Request to Reschedule the June Board Meeting Date to June 22nd:

The Board approved staff's request to change the June 29th meeting to the 22nd.

Update of the Sunset Review:

Ms. Shapiro provided an update regarding the Sunset Review.

At 4:28 p.m., Dr. Shankar left the meeting.

Executive Session for Legal Advice Regarding Conditional Release:

A motion was made by James Clark, seconded by Susan Stevens and passed 3 – 0 to recess into executive session at 4:28 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 open session at 4:45 p.m.

Discussion, Amendment and Approval of Minutes:

Executive session minutes from the February 23, 2018, meeting:

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

Open session minutes from the February 23, 2018, meeting:

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

Identification of Future Agenda Items

Ms. Shapiro asked the Board if they would consider defining the Executive Director's role and Board members decided to wait until the Sunset Review is complete. No future agenda items were identified.

Adjournment:

The Board meeting was adjourned at 4:51 p.m.