



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 May 25, 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

Assistant Attorney General:

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

Staff:

Jaime L. Shapiro, Executive Director

Guests Present and/or Participating:

Abigail Gonzalez	Graciela Alvarez
Allyson Friestleben, ASH	James Schoppmann, Esq. ☞
Amanda Brimlow, ASH	Jandely Eich, ASH
Austin Parker	Jerry Hernandez, Esq. ☞
Baily Freed, ASH	Jessica Lamar, ASH
Caitlin Scarlett, ASH	John Blischak, Esq.
Cole Arigoni, MMIC	Kara Moore, ASH
Connie Wells Brenton	Katelyn Yeaman, ASH
David Joslyn, ASH	Katie Williams, ASH
Debra Garland	Kennedy Klagge, Esq. ☞
Elias Salas Orozco-Luis	Lei Ann Stickney
Faith Neal, ASH	Leon Canty
Gabriela Reyes, ASH	Lindsey Arendt, ASH

Manuel Gray, La Frontera-EMPACT
Martha Navarro
Martha Rios
Maureen Moore, ASH
Nestor Rios
Nicole Floyd, ASH
Rafaela Perez
Samantha Gonzalez

Sandra Carr, Esq.
Sharie Brock, HCIC ☎
Stevie Willis, La Frontera-EMPACT
Tahum Garland
Tammy Wray, Esq.
Telly Rivenburgh, Cenpatico
Tyler Tallant
Victoria Johnson, @ Work Staffing

☎ Participated by Telephone

Call To Order:

James P. Clark called the meeting to order at 1:00 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.

Ms. Shapiro announced that, pursuant to Arizona’s Open Meeting Laws, the PSRB will make a reasonable effort to ensure that no recording devices enter the executive session by prohibiting cellphones, briefcases, backpacks, and handbags in the executive session conference room.

Statutory Hearings:

Robert Allen Laber, Sr. – PSRB No. 13-12

Robert Laber was present with his attorney, Kennedy C. Klagge, who appeared telephonically. The statutory hearing was held from 1:03 p.m. to 1:09 p.m. pursuant to A.R.S. § 13-3994(H). The Hospital recommended conditional release to ASH, phase two, levels three and four.

Louis Caputo stated ASH had nothing to add to the materials submitted. Laxman Patel confirmed that the Special Classification Committee (SCC), Chief Medical Officer (CMO), and Chief Executive Officer (CEO) did not object to the recommendation. Ms. Klagge urged

the PSRB to approve the recommended increase in privileges. Susan Stevens asked the treatment team what training had been provided to the four pass supervisors listed. Dr. Patel said all proposed pass supervisors met with the treatment team and were made aware of the requirements of supervising a GEI individual. Dr. Clark asked if a “WRAP” Plan had been completed and the treatment team confirmed that it had.

A motion was made by Paul O’Connell, seconded by Michael Klemens and passed 4 – 0 to approve Robert Laber 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. 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.

David Joshua Burstein – PSRB No. 16-02

David Burstein was not present and his attorney, Kennedy C. Klagge, who appeared telephonically, waived his presence. The statutory hearing was held from 1:10 p.m. to 1:12 p.m. pursuant to A.R.S. § 13-3994(H). There was no recommendation at that time.

ASH had nothing to add to the materials submitted. Ms. Klagge shared that because of Mr. Burstein’s procedural posture in his post-conviction appeal it was concluded an independent evaluation was not necessary at this time. ASH staff clarified that the contraband found in Mr. Burstein’s room were not weapons.

A motion was made by Susan Stevens, seconded by Michael Klemens to deny conditional release for David Burstein based on the evidence presented by the Arizona State Hospital’s treatment team, that Mr. Burstein 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. David Burstein shall remain committed to the Arizona State Hospital.

Susannah K. Holm – PSRB No. 14-01

Susannah Holm was present with her attorney, Sandra Carr. The statutory hearing was held from 1:13 p.m. to 1:53 p.m. pursuant to A.R.S. § 13-3994(H). The Hospital recommended conditional release to the community.

James Schoppmann, Mohave Deputy County Attorney, and Sharie Brock, Care Manager at Health Choice Integrated Care (HCIC), were teleconferenced into the hearing.

ASH stated that the SCC, CEO, and CMO agreed with the recommendation. Sandra Carr shared that Ms. Holm is asking for independent living in lieu of the recommended sixteen hour residential facility. Ms. Carr shared that Ms. Holm and the victim remain friends, are in close contact, and have children together they hope to continue to co-parent.

Ms. Shapiro mentioned that Ms. Holm's current terms of conditional release prohibit her from contacting the victim and added that the Board could hold a vote to strike that provision. Dr. Klemens asked the treatment team if they had an opinion on the victim contact and Steven Dingle requested time to confer with the treatment team.

The PSRB took a break from 1:21 p.m. to 1:23 p.m.

After the break, a motion was made by James Clark, seconded by Susan Stevens and passed 4 – 0 to recess into executive session at 1:24 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 1:44 p.m.

In open session, Mr. Schoppmann argued that the State has concerns about the recommendation for discharge especially since Ms. Holm's risk assessment has evaluated her to be at a moderate risk for violent reoffending. In addition, she continues to have a consistent reliance on direct-care staff. He questioned whether an intermediate recommendation might be a safer option given the substantial decrease in supervision proposed. Mr. Schoppmann was concerned that these factors will set Ms. Holm up to fail in the community. Dr. Clark reflected Mr. Schoppmann's sentiments and stated that he that ASH has much to offer Ms. Holm in terms of helping her to be more stable and to consolidate the gains she has made in her recovery.

A motion was made by Dr. Clark to deny conditional release to the community for Ms. Holm, that she would remain on phase one of conditional release to ASH. He added that he recognizes that the psychiatric report evaluates Ms. Holm to be stable; however, the risk assessment counters that. Ms. Stevens seconded the motion and it passed 4 – 0.

Ms. Carr asked the Board to approve phase three of conditional release to ASH and discussion ensued.

A motion was made by Susan Stevens, seconded by Michael Klemens, and passed 4 – 0 to strike the provision of Ms. Holm's terms of conditional release prohibiting her from having contact with the victim.

Tyler Jay David Tallant – PSRB No. 14-08

Tyler Tallant was present with his attorney, John W. Blischak. The statutory hearing was held from 1:54 p.m. to 2:06 p.m. pursuant to A.R.S. § 13-3994(H). ASH recommended conditional release to the Hospital, phase three, levels five and six.

ASH staff confirmed that the SCC and Hospital administration agreed with the recommendation. Dr. Patel stated that a 2018 date on page two, item 6 of the report required correction to read 2016.

After discussion, a motion was made by James Clark, seconded by Susan Stevens and passed 4 – 0 to recess into executive session at 1:57 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 2:02 p.m.

After discussion, a motion was made by Paul O’Connell, seconded by Michael Klemens, and passed 4 – 0 to approve Tyler Tallant for conditional release to Arizona State Hospital, phase three, levels five and six, and adopt the conditional release treatment plan, based on the evidence presented by the Arizona State Hospital’s treatment team, that Mr. 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.

George A. Majewski – PSRB No. 16-05

George Majewski was not present and his attorney, John W. Blischak, waived his presence. The statutory hearing was held from 2:07 p.m. to 2:10 p.m. pursuant to A.R.S. § 13-3994(H). There was no recommendation at that time.

ASH staff had nothing to add to the materials already submitted.

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

Michael Anthony Allen – PSRB No. 13-03

Michael Allen was present with his attorney, Jerry Hernandez, who appeared telephonically. The statutory hearing was held from 2:11 p.m. to 2:22 p.m. pursuant to A.R.S. § 13-3994(H). ASH recommended conditional release to the Hospital, phase two, levels three and four.

ASH staff stated that the SCC, CEO, and CMO agree with the recommendation. Dr. Klemens, Dr. Holmes, and Mr. Allen discussed ASH's efforts to secure additional pass supervisors.

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 discussion in executive session, the Board reconvened in open session at 2:21 p.m.

In open session, a motion was made by Michael Klemens, seconded by Paul O'Connell, and passed 4 – 0 to approve Michael Allen 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. 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 presented today.

Michael John Graham – PSRB No. 06-08

Michael Graham was present with his attorney, Tammy Wray. The statutory hearing was held from 2:23 p.m. to 2:28 p.m. pursuant to A.R.S. § 13-3994(H). There was no recommendation at that time.

ASH had nothing to add to the materials already submitted.

Tammy Wray stated that Mr. Graham is requesting discharge from ASH. He has been off of court-ordered treatment for some time and that the symptoms of his mental illness have been resolved.

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

Tahum Garland – PSRB No. 02-04

Tahum Garland was present with his attorney, Tammy Wray. The statutory hearing was held from 2:29 p.m. to 2:56 p.m. pursuant to A.R.S. § 13-3994(H). Mr. Garland requested independent living with family.

Ms. Wray pointed out that the outpatient treatment team is in support of the request. Debra Garland, Mr. Garland's mother, was sworn in and testified that she wants her son in her home and can provide a safer, more stable environment.

A motion was made by James Clark, seconded by Susan Stevens and passed 4 – 0 to recess into executive session at 2:32 p.m. to obtain legal advice pursuant to A.R.S. § 38-431.03(A)(3).

After discussion in executive session, the Board reconvened in open session at 2:44 p.m.

In open session, Board members, Ms. Wray, Cole Arigoni, and Stevie Willis held discussion about Mr. Garland's current residential placement. Mr. Arigoni informed the PSRB that MMIC evaluated Mr. Garland as appropriate for less restrictive setting than a 16 hour facility, and discussion ensued.

Dr. Clark asked ASH staff if, given the option during the hearing in February when ASH recommended for discharge from ASH, would ASH have considered independent living with family. Mr. Caputo advised his client not to opine.

Ms. Wray urged the Board to rely on the clinical opinion of Mr. Garland's treatment team.

A motion was made by Susan Stevens, seconded by Paul O'Connell, and passed 4 – 0 to approve the recommendation for Mr. Garland to live independently with family, based on the evidence presented by the outpatient treatment team that Mr. Garland is in stable remission and not dangerous.

After the vote, Dr. Clark reiterated his concern from last month wherein the PSRB did not amend Mr. Garland's terms of conditional release to require weekly AA/NA meetings. He again urged Mr. Garland to attend community substance abuse meetings.

Amado Salas – PSRB No. 02-06

Amado Salas was present with his attorney, Tammy Wray. The statutory hearing was held from 2:57 p.m. to 3:22 p.m. pursuant to A.R.S. § 13-3994(H). ASH recommended conditional release to the community.

ASH staff stated that the SCC, CEO, and CMO agree with the recommendation. Ms. Wray pointed out the numerous individuals present that are in support of Mr. Salas. Ms. Wray argued that Mr. Salas is ready to be in the community again and is requesting independent living with family.

Dr. Klemens asked why the treatment team is not progressing Mr. Salas through the levels of conditional release to ASH, given his rocky history. Dr. Holmes stated that there would be no therapeutic benefit since Mr. Salas has moved through the levels in the past. Dr. Klemens pointed out that phase three was completed back in 2006. Ms. Stevens inquired as to an updated risk assessment, and Dr. Holmes stated that there was no change since the last risk assessment and discussion ensued about how ASH staff determines when a risk assessment is appropriate.

A motion was made by James Clark, seconded by Susan Stevens and passed 4 – 0 to recess into executive session at 3:08 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 3:18 p.m.

In open session, a motion was made by James Clark, seconded by Susan Stevens, and passed 4 – 0 to approve Amado Salas for conditional release to the community, and adopt the conditional release treatment plan, which includes a 16 hour residential placement, 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 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.

Following the vote, Ms. Stevens commented that risk assessments are most helpful, especially when considering passing over privilege levels.

Discussion, Consideration and Possible Action Related to:

Amended PSRB request for reports templates:

Jaime Shapiro discussed the draft templates submitted by ASH staff and pointed out the changes she and Mr. Raine suggested. She asked for clarification as to if item 11 was meant to address “release” or “discharge” and Mr. Caputo said he was not sure. Discussion ensued.

A motion was made by James Clark, seconded by Susan Stevens, and passed 4 – 0 to adopt the draft templates with the proposed amendments presented by Ms. Shapiro and Mr. Raine.

Response to the Auditor General:

A motion was made by James Clark, seconded by Susan Stevens, and passed 4 – 0 to approve the draft response, as written.

Discussion, Amendment and Approval of Minutes:

Open session minutes from the April 27, 2018, meeting.

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

Michael Klemens abstained.

Executive session minutes from the April 27, 2018, meeting.

A motion was made by James Clark, seconded by Susan Stevens, and passed 3 – 0 to approve the executive session minutes, as amended.

Michael Klemens abstained.

Open session minutes from the May 16, 2018, meeting.

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

Michael Klemens abstained.

Identification of Future Agenda Items:

The PSRB identified the following items:

- Clarification as to how the PSRB can get more detailed information about proposed residential placements.
- Update of the Sunset Review.

Adjournment:

The Board meeting was adjourned at 3:42 p.m.