



Psychiatric Security Review Board

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ARIZONA STATE PSYCHIATRIC SECURITY REVIEW BOARD OPEN SESSION MINUTES

April 26, 2019

**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, M.S., M.P.A.

Michael J. Klemens, Ph.D.

↗ Absent

☎ Ⓣ Participated by phone beginning at 1:54 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:

Aaron Nelson, ASH

Amanda Brimlow, Psy.D., ASH

Ashley Blum, Esq.

Benjamin Brewer, Esq. ☎

Bobby Allen

Brian Beckett

Carolyn Keyser

Cheryl Jones, ASH

Cole Arigoni

Cynthia Hostetler

Cynthia Macfarlane ☎

Detective Josh Cheek

Emily Miles

Erin Cohen, Esq.

Gale Cassidy

Giuliano Mestrin, ASH

Gloria Martinez

Hal Borhauer

Hope Bratton

James Holmes, Psy.D., ASH

Jandely Eich, ASH
Janine Rodriguez
Jayme Blais, ASH
Jerry Hernandez, Esq.
John W. Blischak, Esq.
Joseph Cascio, ASH
Joseph Young, Esq.
Joshua Fisher, Esq.
Karolyn Kaczorowski, Esq. 📞
Kennedy Klagge, Esq. 📞
Kristin Bresnic
Lynn Borhauer
Mary Pay Carothers
Megan Woods
Melissa Korke, ASH

Nora Greer, Esq.
Patty Cooley
Ron Keyser
Rudy Flores, ASH
Rylee Bratton
Sandra Carr, Esq.
Shelly Boswell 📞
Sherry Cooley
Stacey Heard, Esq.
Stefanie Jones-Campbell, Esq.
Steven Kwoh, M.D., ASH
Sue Allen
Summer Schneider, ASH
Telly Rivenburgh

Call To Order:

Michael Klemens called the meeting to order at 1:30 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. Klemens swore in individuals who anticipated testifying.

Statutory Hearings:

Clifford Frederick Gant – PSRB No. 17-06

Clifford Gant was present in person and through counsel, Nora Greer. The statutory hearing was held from 1:33 p.m. to 1:38 p.m. pursuant to A.R.S. § 13-3994(F). This was an initial hearing and there was no recommendation at that time.

Erin Cohen stated that the attending provider, Stephen Morris, was not present. Nora Greer stated that Mr. Gant is cooperative with his treatment and understands the Hospital’s position as indicated in the report.

Detective Josh Cheek, lead detective during the criminal investigation, was present and testified on behalf of the Tucson Police Department. He stated that the homicide was particularly brutal and during the course of the investigation, the Tucson Police Department uncovered that Mr. Gant has a history of medication non-compliance when not in a facility. Additionally, Mr. Gant started two fires, one in a Waffle House in Phoenix following an altercation and one in his family's home as they slept, which indicates dangerousness and a propensity to reoffend.

A motion was made by Susan Stevens, seconded by Paul O'Connell, and passed 3 – 0 to deny conditional release for Clifford Gant based on the evidence presented by the Arizona State Hospital's treatment team, that Mr. Gant 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. Clifford Gant shall remain committed to the Arizona State Hospital.

Luther Cesar Cruz – PSRB No. 17-14

Luther Cruz was present in person and through counsel, Stefanie Jones-Campbell. The statutory hearing was held from 1:40 p.m. to 1:43 p.m. pursuant to A.R.S. § 13-3994(F). This was an initial hearing and there was no recommendation at that time.

Ms. Cohen stated that Dr. Bhatti was not present. Stefanie Jones-Campbell stated that Mr. Cruz is treatment compliant and making progress. He has a supportive family and has been referred to the Psychology Department to be assessed for risk of dangerousness. It was clarified that the risk assessment would be completed in the next month. Ms. Steven added that she hopes that any future recommendation is accompanied by a report with more information.

A motion was made by Paul O'Connell, seconded by Susan Stevens, and passed 3 – 0 to deny conditional release for Luther Cruz based on the evidence presented by the Arizona State Hospital's treatment team, that Mr. Cruz 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. Luther Cruz shall remain committed to the Arizona State Hospital.

Robert Lee Dunn – PSRB No. 17-03

Robert Dunn was present in person and through counsel, Stefanie Jones-Campbell. The statutory hearing was held from 1:44 p.m. to 1:50 p.m. pursuant to A.R.S. § 13-3994(F). This was an initial hearing and there was no recommendation at that time.

Gloria Martinez, Mr. Dunn's significant other, was teleconferenced into the hearing. Ms. Jones-Campbell stated that Mr. Dunn would benefit from more therapeutic group attendance and the participation of Ms. Martinez in his treatment. She added that she hopes that the treatment team will be encouraged to involve her over the phone because she provides enthusiastic support to Mr. Dunn.

Ms. Martinez was sworn in and testified she has not been given the opportunity to be involved in Mr. Dunn's treatment as much as a power of attorney should be involved. She added that she and Mr. Dunn have children together and the family wants him to come home; he is a good man and a good father.

Ms. Stevens asked for clarification to the response to item five on the psychiatric report, and Ms. Cohen reiterated that Dr. Bhatti was not present and could not clarify.

A motion was made by Susan Stevens, seconded by Paul O'Connell, and passed 3 – 0 to deny conditional release for Robert Dunn based on the evidence presented by the Arizona State Hospital's treatment team, that Mr. Dunn 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. Robert Dunn shall remain committed to the Arizona State Hospital.

Darrek John Skurja – PSRB No. 15-06

Darrek Skurja was present in person and through counsel, Kennedy Klagge, who appeared telephonically. The statutory hearing was held from 1:52 p.m. to 1:53 p.m. pursuant to A.R.S. § 13-3994(H). This was a two-year hearing and ASH recommended no change in status.

Kennedy Klagge, defense counsel, and Josh Fisher, Yavapai Deputy County Attorney, were teleconferenced into the hearing.

After discussion, A motion was made by Susan Stevens, seconded by Paul O'Connell, and passed 3 – 0 that there is no change in Darrek Skurja's status and that he remains on conditional release to the Arizona State Hospital, phase one, levels one and two, based on the evidence presented by the Arizona State Hospital's treatment team that Ms. Skurja remains in stable remission and not dangerous.

Chandrika Shankar joined the meeting at 1:54 p.m.

Blake Brown – PSRB No. 15-09

Blake Brown was present in person and through counsel, Jerry Hernandez. The statutory hearing was held from 1:54 p.m. to 2:01 p.m. pursuant to A.R.S. § 13-3994(H). This was a two-year hearing and ASH recommended conditional release, phase two, level three.

Karolyn Kaczorowski, Yuma Deputy County Attorney, was teleconferenced into the hearing.

Jerry Hernandez stated that Mr. Brown's family offers unlimited support and he urged the Board to approve the recommendation.

Bobby Allen testified that he has known Mr. Brown's family for about eighteen years. He testified that he can personally justify that the support system around Mr. Brown, if the Board accepts the recommendation, will provide him with the necessary tools outside of the facility. He requested that the Board accept the recommendation.

Ron Keyser, Mr. Brown's grandfather, testified that he and his family's support of Mr. Brown has been continuing and unconditional. Mr. Keyser and his wife have attended nearly every staffing and have observed clear and convincing evidence that Mr. Brown's efforts toward recovery have provided his eligibility for the increase in levels. Mr. Keyser assured the Board that the family recognizes the conditions of release and they will be complied with.

A motion was made by Paul O'Connell, seconded by Chandrika Shankar, and passed 4 – 0 to approve Blake Brown for conditional release to Arizona State Hospital, phase two, level three, 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.

Tony Gene Sackman – PSRB No. 09-06

Tony Sackman was present in person and through counsel, Sandra Carr. The statutory hearing was held from 2:02 p.m. to 2:05 p.m. pursuant to A.R.S. § 13-3994(H). This was a two-year hearing and there was no recommendation at that time.

Sandra Carr stated that Mr. Sackman is compliant with medications and is well-liked on the unit. Mr. Sackman may be open to attending more therapeutic group sessions in order to help him to get closer to conditional release.

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

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

Leon Canty was present in person and through counsel, Ashley Blum, who appeared on behalf of assigned attorney, Tammy Wray. The statutory hearing was held from 2:06 p.m. to 2:08 p.m. pursuant to A.R.S. § 31-502(A)(5) and (B)(4). Mr. Canty requested permission to change his residential address.

After discussion, a motion was made by Susan Stevens, seconded by Paul O’Connell, and passed 4 – 0 to approve a residential address change for Leon Canty, based on the evidence presented by the outpatient treatment team that Mr. Canty remains in stable remission and not dangerous.

Tyler Jay David Tallant – PSRB No. 14-08

Tyler Tallant was present in person and through counsel, John W. Blischak. The statutory hearing was held from 2:09 p.m. to 2:29 p.m. pursuant to A.R.S. § 13-3994(J) and 31-502(A)(5). The PSRB’s jurisdiction ends on June 10, 2019; ASH recommended a court-ordered evaluation for civil commitment and revocation of conditional release.

John Blischak stated that Mr. Tallant opposes a court ordered evaluation for civil commitment.

A motion was made by Michael Klemens, seconded by Susan Stevens, and passed 4 – 0 to recess into executive session at 2:12 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 2:27 p.m.

In open session, a motion was made by Paul O’Connell to revoke the Conditional Release for Tyler Tallant based on the evidence presented by the outpatient treatment team that Mr. Tallant failed to comply with the terms of his conditional release, failed to prove by clear and convincing evidence that he is no longer dangerous, and that Tyler Tallant remain at the Arizona State Hospital for further evaluation and treatment.

Ms. Shapiro recommended an amendment to change “outpatient treatment team” to the “Arizona State Hospital’s treatment team”. Mr. O’Connell amended his motion and it was seconded by Susan Stevens, and passed 4 – 0.

A motion was made by Paul O'Connell, seconded by Chandrika Shankar, and passed 4 – 0 to order the Pima County Attorney to initiate civil commitment proceedings for Tyler Tallant 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. Tallant to the custody of an appropriate law-enforcement agency for transportation up to five business days prior to the PSRB's jurisdiction expiration date.

Joe Curtis O'Cain – PSRB No. 12-01

Joe O'Cain was present in person and through counsel, John W. Blischak. The statutory hearing was held from 2:30 p.m. to 2:36 p.m. pursuant to A.R.S. § 13-3994(H). ASH recommended conditional release to ASH, phase three, levels five and six.

Mr. Blischak asked the Board to approve the recommendation. Kristin Bresnic from the S.T.A.R. Program was sworn in and testified that Mr. O'Cain attends several groups per day, is insightful, and is active in treatment.

A motion was made by Susan Stevens, seconded by Paul O'Connell, and passed 4 – 0 to approve Joe O'Cain 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. O'Cain'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.

Jamarall Jordan – PSRB No. 04-01

Jamarall Jordan was present in person and through counsel, John W. Blischak. The statutory hearing was held from 2:37 p.m. to 2:40 p.m. pursuant to A.R.S. § 31-502(A)(5) and (B)(4). Mr. Jordan requested permission to travel out-of-state.

After discussion, a motion was made by Paul O'Connell seconded by Susan Stevens, and passed 4 – 0 to approve Jamarall Jordan for out-of-state travel to San Diego, California from May 27, 2019 to May 31, 2019.

After discussion, Mr. O'Connell amended his motion to add that the treatment team shall conduct a urine drug screen within three days of Mr. Jordan's return to Arizona, based on the evidence that Mr. Jordan remains in stable remission and is no longer dangerous. The amendment was seconded by Susan Stevens, and it passed 4 – 0.

Gavin Trent Macfarlane – PSRB No. 13-10

Gavin Macfarlane was present in person and through counsel, Ashley Blum. The statutory hearing was held from 2:41 p.m. to 2:45 p.m. pursuant to A.R.S. § 13-3994(H). This was a two-year hearing and there was no recommendation at that time.

Shelly Boswell and Cynthia Macfarlane were teleconferenced into the hearing.

Ashley Blum stated that Mr. Macfarlane is compliant with and engaged in treatment.

Emily Miles testified that there were twelve individuals present today on behalf of Adam Cooley, one of Mr. Macfarlane's victims. She stated that Adam Cooley was pronounced deceased on his mother's and sister's birthday at the age of 34. Ms. Miles discussed the pain and sadness Adam Cooley's friends and family feel when faced with the PSRB hearings every two years. Ms. Miles stated that Mr. Macfarlane is a threat and a danger and requested that the Board order Mr. Macfarlane to serve the rest of his sentence with the Department of Corrections (ADC).

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

James Webb Norton – PSRB No. 17-14

James Norton was present in person and through counsel, Benjamin Brewer, who appeared telephonically. The statutory hearing was held from 2:46 p.m. to 3:10 p.m. pursuant to A.R.S. § 13-3994(F). This was an initial hearing and there was no recommendation from ASH at that time. Mr. Norton requested conditional release to ASH, phase one, levels one and two.

Benjamin Brewer was teleconferenced into the hearing.

Ms. Cohen stated that Dr. Morris is not present today and that Dr. Morris believes that there is no treatment benefit for Mr. Norton at ASH and that he remains dangerous. She added that Mr. Norton is not prescribed medication and that if the Board believes transfer to the ADC is appropriate, he would not be opposed.

Mr. Brewer stated that he did not anticipate a recommendation to transfer to ADC and under statute, this is not a possibility. Mr. Brewer reiterated that Mr. Norton is requesting conditional release.

Ms. Cohen clarified that the Special Classification Committee (SCC) was not presented with this case.

A motion was made by Michael Klemens, seconded by Susan Stevens, and passed 4 – 0 to recess into executive session at 2:50 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 3:05 p.m.

In open session, Joseph Young from the Apache County Attorney's Office was present and stated that the victims oppose discharge citing a great concern for public safety and that Mr. Norton fails to see the seriousness of the offense.

Mr. Brewer argued that under § 13-3994(F)(4), Mr. Norton does not qualify for transfer to ADC.

A motion was made by Michael Klemens, seconded by Susan Stevens, and passed 4 – 0 to continue the matter for one month, due to the treatment team not being present, and questions that remain regarding the report, and discharge recommendations.

Joleen Ovind – PSRB No. 95-04

Joleen Ovind was present in person and through counsel, Steven L. Harvey. The statutory hearing was held from 3:11 p.m. to 3:13 p.m. pursuant to A.R.S. § 13-3994(J). The PSRB's jurisdiction ends May 29, 2019 and ASH recommended expiration with no further action.

After discussion, a motion was made by Susan Stevens, seconded by Paul O'Connell, and passed 4 – 0 that the PSRB allow its jurisdiction over Joleen Ovind 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 to conditionally release Ms. Ovind to a residential setting in the community up to five days prior to the PSRB's jurisdiction expiration date.

The PSRB took a break from 3:16 p.m. to 3:18 p.m.

Isaac Manuel Contreras – PSRB No. 17-05

Isaac Contreras was present in person and through counsel, Jerry Hernandez, who appeared on behalf of assigned attorney, Cynthia Brubaker. The statutory hearing was held from 3:19 p.m. to 3:23 p.m. pursuant to A.R.S. § 13-3994(F). This was an initial hearing and there was no recommendation at that time.

Karolyn Kaczorowski was teleconferenced into the hearing.

Mr. Contreras stated that he wants to be transferred to another unit and is not receiving enough therapy.

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

Discussion and Possible Action Related to:

Review of the Conditional Release Monthly Report Template:

Ms. Shapiro stated that AHCCCS contacted her regarding their annual policy review and requested any recommendations for changes to the monthly report template, which included changing the due date to the 10th of each month.

Cynthia Hostetler and Megan Woods from AHCCCS were present and stated that a change of the due date would mean a contractual change with the RBHAs, which may pose a challenge.

After discussion, the Board deferred the matter to May.

Review of Draft PSRB Policies:

Mental Health Reports; Risk Assessments; Definitions

Mr. Raine informed the Board that he would be able to review the drafts to be sure the policies comport with statute.

Mr. Raine advised that he thought the content of the policies may be more suited for a Substantive Policy Statement (SPS) or rule, and that he would conduct further research. He explained that the drafts deal with how the agency manages patients and the public, and defines statutory terms. In his opinion, the draft language would be, at a minimum, an SPS,

rule, or legislative change recommendation, and added that a policy discusses administrative inner-workings. Ultimately, the Board deferred the matter to May.

Discussion, Amendment and Approval of Minutes:

Open session minutes from the March 29, 2019, meeting:

Executive session minutes from the March 29, 2019, meeting:

Open session minutes from the April 16, 2019, meeting:

Executive session minutes from the April 16, 2019, meeting:

After discussion, the Board deferred approval of draft minutes to the May meeting.

Adjournment:

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