



## ***Psychiatric Security Review Board***

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DOUGLAS A. DUCEY, GOVERNOR  
JAMES P. CLARK, M.D., CHAIRMAN  
[www.azdhs.gov/psrb](http://www.azdhs.gov/psrb)

# **ARIZONA STATE PSYCHIATRIC SECURITY REVIEW BOARD OPEN SESSION MINUTES**

**October 30 , 2020  
PSRB Hearing Room  
2500 E. Van Buren St.  
Phoenix, AZ 85008**

### Members:

James P. Clark, M.D., Chairman  
Michael J. Klemens, Ph.D., Vice-Chairman ↗  
Paul O'Connell, M.S., M.P.A ↗  
Susan Stevens, Esq. ↗

### Assistant Attorney General:

Jeanne Galvin, Esq. ↗

### Staff:

Hannah N. Garcia, Executive Director

### Guests Present and/or Participating

Akram Bhatti, M.D. ↗	Nicol Green, Esq. ↗
Ashley Blum, Esq. ↗	Rickey Russel ↗
Cynthia Hernandez ↗	Stacey Heard, Esq. ↗
David Burstein	Stefanie Jones-Campbell, Esq., ↗
Erin Cohen, Esq., ASH ↗	Stella Hutchinson ↗
Holly Geiszel, Esq.	Stephen Jaffe, M.D. ↗
James Holmes, Psy.D. ↗	Stephen Morris, M.D. ↗
Joseph Sinkovich. ↗	Steven Kwoh, M.D. ↗
Kennedy Klagge, Esq. ↗	Steve Young, Esq. ↗
Lisa Christensen ↗	Tammy Wray, Esq. ↗
Luther Cruz ↗	

¶ Participated Telephonically

**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. This means that persons present during an executive session of the PSRB may not disclose any information regarding the executive session or discuss those proceedings with any person who was not also present at the executive session."

Dr. Clark swore in individuals who anticipated testifying.

**Statutory Hearings:**

**Rickey Farrell Russell – PSRB No. 09-05**

Rickey Russell was present in person and through counsel, Holly Geiszel, who participated in person. The statutory hearing was held from 1:07 p.m. to 1:14 p.m. pursuant to A.R.S. § 13-3994 (H). This was a two-year hearing, and there was no recommendation.

Erin Cohen stated that Mr. Russell's pending criminal charges were dismissed, but he currently has a failure to appear notice that is pending.

Holly Geiszel stated that she is looking into the pending charges against Mr. Russell and would like to "clean up his record".

Rickey Russell stated that he has had difficulties in the past but he is now taking the correct medication, participating in his treatment, and asking for a chance to have some privileges.

Dr. Clark asked Dr. Steven Kwoh if Mr. Russell will be referred to Resolution Group in the future. Dr. Kwoh stated that nothing is set at this time, but that his team would look into it as a possibility.

Nicol Green, Esq., stated that she has concerns about the number of problem behaviors Mr. Russell has had in the past year and she does not support any privileges at this time

After further discussion, a motion was made by Dr. Clark, seconded by Susan Stevens, and passed unanimously to deny conditional release for Rickey Russell based on the evidence

presented by the Arizona State Hospital's treatment team, that Mr. Russell 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. Russell shall remain committed in the Arizona State Hospital.

**Cynthia Hernandez – PSRB No. 10-10**

Cynthia Hernandez was present telephonically, and through counsel, Tammy Wray, who participated telephonically. The statutory hearing was held from 1:22 p.m. to 1:45 p.m. pursuant to A.R.S. § 13-3994 (J). The outpatient treatment team is requesting independent living.

Tammy Wray, Esq., stated that Ms. Hernandez has been in her current apartment for 8 months with supervision. If Ms. Hernandez is to be approved for independent living, her treatment team will apply for a housing voucher that will most likely take a while to get approved. She would continue to have ACT services, participate in medication monitoring, and see her treatment team daily. Ms. Wray stated that Ms. Hernandez has become very independent, and she is hoping to have a place of her own.

Lisa Christensen stated that she has been present at many of Ms. Hernandez's hearings, and is in full support of Ms. Hernandez.

Michael Klemens questioned if Ms. Hernandez is currently in a 12-hour placement facility, or if she is in a 16-hour facility.

Ms. Hernandez stated that it is a 16-hour facility.

Michael Klemens asked the treatment team if there are any lower supervision facilities that are less than 16 hours.

TL stated that there is an 8-hour living option, but Ms. Hernandez does not wish to have to move several times.

Michael Klemens asked Ms. Hernandez if she has been participating in support teams, and if she has been logging her activities. If she is logging her activities, would the Board be able to receive these logs in order to see all the types of treatment that she is participating in.

Ms. Hernandez stated that she does log her support team participation in her journal, and would be able to provide that documentation to the Board.

Dr. Clark stated that the records show that Ms. Hernandez has done well in structured settings, and there is a concern with a marked lessening of supervision so soon after her Hospital discharge.

Tammy Wray stated that if the Board is hesitant to approve independent living, would the Board be open to approving a step down to an 8-hour facility.

A motion was made by Susan Stevens, seconded by Michael Klemens, and passed unanimously to approve Ms. Hernandez for a step-down to an 8-hour facility. The record indicates that there is clear and convincing evidence that Ms. Hernandez is in stable remission and not dangerous under the current treatment plan.

**David Joshua Burstein-PSRB No. 16-02**

David Burstein was present in person and through counsel, Holly Geiszel, who participated in person. The statutory hearing was held from 1:46 p.m. to 2:26 p.m. pursuant to A.R.S. §13-3994 (H). This is a two-year hearing, and there is no recommendation.

Dr. Clark noted that since Mr. Burstein's admission to ASH, he has had seven Hearing continuances. Dr. Clark further noted that the Board has yet to receive Dr. Potts' independent psychiatric evaluation. Ms. Geiszel previously requested two continuances to allow Dr. Potts the time needed to complete his report and submit it to the Board.

Dr. Stephen Jaffe, at Ms. Geiszel's request, was sworn in as an expert witness.

Ms. Geiszel questioned Dr. Jaffe at length regarding his most recent psychiatric report dated September 2nd, 2020.

During Ms. Geiszel's questioning of Dr. Jaffe, Dr. Clark noted that the focus of today's Hearing was to consider whether Mr. Burstein still suffers from a mental disease or defect, whether he still needs treatment, whether his mental illness is in stable remission and whether there is a determination regarding dangerousness. Dr. Clark noted that the Hospital's treatment team is not recommending conditional release because of evidence that Mr. Burstein is not in stable remission. Dr. Jaffe's report and testimony supported this conclusion.

After Ms. Geiszel concluded her questioning of Dr. Jaffe, Mr. Burstein addressed the Board. His remarks indicated that he wants to refocus and commit himself to working with his treatment team to get better. He acknowledged misbehavior regarding the incident with the government stimulus checks of vulnerable fellow inpatients.

Ms. Geiszel stated that Dr. Potts, who was available by phone for today's Hearing, would not be testifying.

After further discussion, a motion was made by James Clark, seconded by Michael Klemens, and passed unanimously 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. Mr. Burstein shall remain committed in the Arizona State Hospital

**Timothy James Bribriesco– PSRB No. 16-12**

Timothy Bribriesco was not present. The statutory hearing was held from 2:27 p.m. to 2:34 p.m. pursuant to A.R.S. § 13-3994 (H). This is a two-year hearing, with no recommendation.

Jeanne Galvin advised the Board that she would be looking into the documentation regarding the change of attorney for Mr. Bribriesco. It appears as though the documentation was not processed correctly, and in order to best proceed, this hearing could be tabled.

Dr. Clark made a motion, seconded by Paul O'Connell, and passed unanimously to table Mr. Bribriesco's hearing for 60 days.

**Joseph Sinkovich– PSRB No. 98-09**

Joseph Sinkovich was present in person, and through counsel, Ashley Blum, who participated telephonically. The statutory hearing was held from 2:34 p.m. to 2:39 p.m. pursuant to A.R.S. § 13-3994 (H). This is a two-year hearing, with no recommendation

Ashley Blum stated that Mr. Sinkovich has made tremendous advancements, and is moving in a positive direction.

James Clark asked if his refusal to not complete his sleep study would constitute a rule violation.

Dr. Akram Bhatti stated that it would not count as a rule violation. He stated that Mr. Sinkovich is doing quite well.

After further discussion, a motion was made by Michael Klemens, seconded by James Clark, and passed unanimously to deny conditional release for Joseph Sinkovich based on the evidence presented by the Arizona State Hospital's treatment team, that Mr. Sinkovich 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. Sinkovich shall remain committed in the Arizona State Hospital.

**Luther Cesar Cruz– PSRB No. 17-03**

Luther Cruz was present in person, and through counsel, Stefanie Jones-Campbell, who participated telephonically. The statutory hearing was held from 2:40 p.m. to 2:45 p.m. pursuant to A.R.S. §13-3994 (H). ASH is recommending Phase 2, Levels 3 and 4.

Stefanie Jones Campbell, Esq., stated that she is very impressed with how Mr. Cruz is doing and she agrees with the Hospital's report and recommendation.

Michael Klemens asked the treatment team if they had a projected date on when off campus passes would resume.

James Holmes, Psy.D. stated that there is not a projected date as of right now.

Michael Klemens asked if there is anything that could be done to potentially give Mr. Cruz additional responsibilities.

Dr. Holmes stated that he would discuss this with administration.

After discussion, a motion was made by Susan Stevens, seconded by James Clark, and passed unanimously to approve Luther Cruz for conditional release to Arizona State Hospital, phase two, levels three and four, and to adopt the conditional release treatment plan, based on the evidence presented by the Arizona State Hospital's treatment team, that Mr. Cruz'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 and Possible Action Related to:**

**A. Board Member Opening:**

James Clark stated that the Board has been in contact with Boards and Commissions and is waiting to hear the results of the interviews that were recently conducted with the two psychiatrist candidates.

**Discussion, Amendment, and Approval of Minutes:**

**Open session minutes from the September 29, 2020, meeting:**

A motion was made by James Clark, seconded by Susan Stevens, to adopt the September 29, 2020 open session minutes as amended.

**Identification of Future Agenda Items:**

James Clark stated that he would like additional guidance on how to best handle attorney-witness and attorney Board interactions in the future.

Jeanne Galvin, Esq., stated that she would work with Executive Director, Hannah Garcia, to agendize a Board member training.

**Adjournment:**

The Board meeting adjourned 2:53 p.m.