



Psychiatric Security Review Board

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ARIZONA STATE PSYCHIATRIC SECURITY REVIEW BOARD OPEN SESSION MINUTES

March 27, 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 ☞
Susan Stevens, Esq. ☞
Paul O'Connell, M.S., M.P.A. ☞
Gwen A. Levitt, D.O. ☞

Assistant Attorney General:

Jeanne Galvin, Esq.

Staff:

Jaime L. Shapiro, Executive Director

Guests Present and/or Participating

Andrew Fallick, Esq. ☞	Hannah Garcia
Brian Mitchum ☞	James Holmes, Psy. D. ☞
Casi Harris, Esq. ☞	Jamarall Jordan ☞
Clifford Katz ☞	Jandely Eich, ASH ☞
Dana Katz ☞	Jess Lorona, Esq. ☞
Darrek Skurja ☞	John Blischak, Esq. ☞
Erin Cohen, Esq., ASH ☞	Josh Fisher, Esq. ☞
Gary Schlee ☞	Josephine Jones, Esq. ☞
Harmony Hayes, ASH ☞	Manuel Grey, ASH ☞

Nicol Green, Esq. 📞

Rebecca Lane, Spectrum 📞

Robin Ward, Spectrum 📞

Tammy Wray, Esq. 📞

📞 Participated Telephonically

Call To Order:

James Clark called the meeting to order at 1:04 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:

Clifford Andrew Katz – PSRB No. 15-07

Clifford Katz was present telephonically with his wife Dana Katz, and through counsel, Andrew Fallick, who appeared telephonically. The statutory hearing was held from 1:07 p.m. to 1:12 p.m. pursuant to A.R.S. § 31-502(A)(5) and (B)(4). The outpatient team was recommending removal of the community meetings requirement.

Rebecca Lane from Spectrum Healthcare was present telephonically and stated that Mr. Katz has been compliant with all treatment plans, recommendations, and instructions. He continues to remain in stable remission.

Gwen Levitt asked if the Board were to grant this modified treatment plan, would Mr. Katz still be required to submit a Urine Drug Screen.

Rebecca Lane stated that yes, Mr. Katz would still participate in random Urine Drug Screens.

Michael Klemens wanted to clarify if this request to remove the community meeting attendance requirement is a temporary, or permanent request.

Rebecca Lane stated that this is a permanent request.

After discussion, a motion was made by James Clark, seconded by Susan Stevens, and passed unanimously to modify the conditional release to the community treatment plant to discontinue the requirement for community meetings attendance due to numerous major health issues. Mr. Katz remains in a stable remission, and is not dangerous.

Gary Willard Schlee – PSRB No. 12-10

Gary Schlee was present telephonically and through counsel, Andrew Fallick who appeared telephonically. The statutory hearing was held from 1:13 p.m. to 1:25 p.m. pursuant to A.R.S. § 31-502(A)(5) and (B)(4). The outpatient team is recommending a step-down in residential monitoring and a reduction in case management.

Rebecca Lane from Spectrum Healthcare was present telephonically. She stated that Mr. Schlee has been compliant and stable during treatment. The outpatient team is requesting a step-down in Mr. Schlee's residential monitoring from a 24-hour facility, to a 16-hour facility to provide more flexibility.

James Clark asked for clarification regarding Mr. Schlee's current case management procedure.

Rebecca Lane stated that during the course of a month, she has a phone session with Mr. Schlee the first week, has a face-face session the second week, a phone session the third week, and a face-to-face session the fourth week. Rebecca Lane also stated that if there is a fifth week to that particular month, she would conduct a phone session with Mr. Schlee. Mr. Schlee is also participating in telehealth appointments for psychiatric healthcare with Dena Wampler from Spectrum Healthcare.

James Clark inquired about the potential for added stress to Mr. Schlee with the potential of buying a new automobile and asked if he has sufficient funds to maintain this purchase.

Gary Schlee stated that he has been able to save enough money to not only purchase an automobile, but also handle other auto related expenses as well.

Gwenn Levitt addressed her concern with Mr. Schlee being granted both a step-down from a 24 hour facility to a 16 hour facility, and reducing his number of contacts at the same time. She proposes that the outpatient treatment team transition Mr. Schlee from a 24 hour facility to a 16 hour facility, but keep his case management schedule the same for several more months in order to ensure that Mr. Schlee remains stable during his transition.

After discussion, a motion was made by James Clark, seconded by Susan Stevens, and passed unanimously to grant Mr. Schlee to step down from a 24-hour facility, to a 16-hour facility, and have Mr. Schlee's case management schedule to remain the same for the first three months. Mr. Schlee remains in stable remission and is not dangerous.

Darrek John Skurja– PSRB No. 15-06

Darrek Skurja was present telephonically, and through counsel, Andrew Fallick, who appeared telephonically. The statutory hearing was held from 1:26 p.m. to 1:31 p.m. pursuant to A.R.S. § 13-3994(H). ASH is recommending phase two, level three conditional release.

After further discussion, a motion was made by Paul O'Connell, seconded by Gwenn Levitt, and passed unanimously to grant Mr. Skurja conditional release to the Arizona State Hospital, phase two, level three. Mr. Skurja remains in stable remission and is not dangerous.

Scott Joe Peterson– PSRB No. 16-03

Scott Peterson declined to attend. His counsel, Andrew Fallick, appeared telephonically. The statutory hearing was held from 1:32 p.m. to 1:36 p.m. pursuant to A.R.S. § 13-3994(H). This was a two-year hearing and there was no recommendation. Mr. Fallick waived Mr. Peterson's presence.

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

Brian Price Mitchum– PSRB No. 17-16

Brian Mitchum was present telephonically and through counsel, Jess Lorona, who appeared telephonically. The statutory hearing was held from 1:37 p.m. to 1:47 p.m. pursuant to A.R.S. § 13-3994(H). This was a two-year hearing and there was no recommendation.

Jess Lorona stated that one year prior to Mr. Mitchum's admission to the Arizona State Hospital, he was doing well under outpatient care. He voluntarily checked himself back into multiple facilities for stabilization. Before Mr. Mitchum was held at the Apache County Sheriff's Office awaiting transport to the Arizona State Hospital, he took part in psychotherapy and outpatient treatment. Jess Lorona also stated that during the time Mr. Mitchum was in the community, without much supervision, he remained non-dangerous.

James Clark asked for clarification regarding the time Mr. Mitchum spent in a treatment program prior to him being admitted to a hospital in Utah.

Jess Lorona stated that Mr. Mitchum was admitted to the Discover Center in Utah and did not do well at this center, but was then involuntarily admitted to the University Neuropsychiatric Institute (“UNI”). Once he was released, he voluntarily re-admitted himself for stabilization.

Brian Mitchum stated that on multiple occasions, he had the opportunity to voluntarily participate in multiple treatment programs, and he took advantage of every opportunity. He also expressed his feeling that the treatment program that he is currently participating in at the Arizona State Hospital is not as beneficial as he would like it to be.

After further discussion, a motion was made by Gwenn Levitt, seconded by Paul O’Connell, and passed unanimously to deny conditional release for Brian Mitchum based on the evidence presented by the Arizona State Hospital’s treatment team, that Mr. Mitchum 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. Mitchum shall remain committed in the Arizona State Hospital

Rodney Bruce Woodville– PSRB No. 13-15

Rodney Woodville declined to attend and his presence was waived by his counsel, John Blischak, who appeared telephonically. The statutory hearing was held from 1:48 p.m. to 1:50 p.m. pursuant to A.R.S. § 13-3994(H). This was a two-year hearing and there was no recommendation.

After further discussion, a motion was made by James Clark, seconded by Susan Stevens, and passed unanimously to deny conditional release for Rodney Woodville based on the evidence presented by the Arizona State Hospital’s treatment team, that Mr. Woodville 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. Woodville shall remain committed in the Arizona State Hospital.

Jamarall Jordan– PSRB No. 04-01

Jamarall Jordan was present telephonically and through counsel, John Blischak who appeared telephonically. The statutory hearing was held from 1:51 p.m. to 2:10 p.m. pursuant to A.R.S. 31-502(A)(5) and (B)(4). The outpatient treatment team recommended an increase in work hours and out-of-State travel.

James Clark stated that the outpatient team is also requesting the removal of twelve-step meeting attendance on a regular basis. James Clark noted that after reviewing all the conditional release reports it appeared as though Mr. Jordan was attending regularly and not “at his leisure” and that 12 STEP meeting attendance seemed to be an integral part of his treatment plan.

Jamarall Jordan stated that this statement was correct.

Michael Klemens expressed a concern about Mr. Jordan driving to El Paso, Texas in one day to pick up his mother, and then returning with her, the same day. He stated that this would be close to one thousand miles travelled.

Mr. Jordan stated that he would be able to drive to El Paso, but his mom would be able to help out with the drive to Arizona.

Michael Klemens asked the outpatient treatment team if it is possible for Mr. Jordan to receive any medication that he is scheduled to take, before he was to leave to El Paso, Texas.

Manuel Gray from La-Frontera-EMPACT, stated that the patient team would be able to make this request happen for Mr. Jordan.

Jamarrall Jordan stated that he has been approved for out-of-state travel before, and that he is not new to driving long distances.

James Clark stated that regarding the request to remove twelve-step meetings for Mr. Jordan, it has seemed as though they have been a big part of his life, over a long period of time, and that meeting attendance can help show how to lead a balanced life with using drugs.

Jamarall Jordan stated that when he was arrested, he had no drugs in his system. He stated that these meetings are not specific to him, and that he is only attending these meetings to stay in the community. He feels as though he has had little benefit from the twelve-step meetings.

John Blischak stated that Mr. Jordan always answers his phone calls, and there has never been any problem. He stated that the Board will have no problem with Mr. Jordan, and that he will comply.

After further discussion, a motion was made by James Clark to grant Mr. Jordan fifty-five work hours per week, that the community meeting requirement remain in place, and that Mr. Jordan be allowed to travel on April 19, 2020 and April 20, 2020 to El Paso, Texas to pick-up his

mother, and return to Arizona. Mr. Jordan must also notify the Board when he plans on returning his mother to El Paso, Texas from Arizona.

Jamarall Jordan asked the Board to extend the flexibility of his travel days, due to the fact that his wife could have their baby before or after the set dates that were given.

James Clark amended his motion to grant travel anywhere from April 13, 2020 to April 19, 2020, and notify the Board in writing when he plans to return his mother from Arizona to El Paso, Texas. Seconded by Susan Stevens and passed unanimously.

Gary Reagan Sherrill– PSRB No. 16-04

Gary Sherrill was not present. His counsel, Tammy appeared telephonically and waived Mr. Sherrill's presence. The statutory hearing was held from 2:11 p.m. to 2:14 p.m. pursuant to A.R.S. § 13-3994(H). This was a two-year hearing, there is no recommendation.

Tammy Wray stated that her and Mr. Sherrill meet on a regular basis, and Mr. Sherrill made the decision to not appear today in light of the current circumstances. She also stated that Mr. Sherrill is working on his recovery, and is looking forward to come before the Board at a future date.

After further discussion, a motion was made by Susan Stevens, seconded by Gwen Levitt, and passed unanimously to deny conditional release for Gary Sherrill based on the evidence presented by the Arizona State Hospital's treatment team, that Mr. Sherrill 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. Sherrill shall remain committed in the Arizona State Hospital.

Discussion and Possible Action Related to:

Legislative Update: SB1053, HB2320

James Clark stated that it was his understanding that SB1053 was passed by the legislature, SB1053 continues the Psychiatric Security Review Board until 2028. It is not certain if HB2320, which is the proposed GEI statute rewrite, will be presented to the Senate Judiciary Committee during the 2020 legislative session.

Susan Stevens stated that the legislature is currently in recess until April 13, 2020. They will most likely reconvene at a later date and continue with multiple bills.

James Clark mentioned that there was a document submitted by the Arizona Center of Disability Law that expressed concerns about HB2320 redefining the definition of "mental

disorder” to include psychiatric or neurological conditions including conditions resulting from injury, disease or developmental disability. The current GEI statute uses “mental disease or defect” terminology and is limited to mental illnesses and not neurological conditions, traumatic brain injuries or developmental disabilities.

Susan Stevens stated that HB2320 still has the whole Senate process to go through.

Amended Conditional Release Plans:

Jaime Shapiro stated that a number of months ago, the Board had amended a patient conditional release treatment plan, however, staff at the Arizona State Hospital refused to resubmit an amended conditional release treatment plan to the PSRB Order. Erin Cohen (ASH Attorney) responded with an email stating that going forward, ASH will not be submitting amended release plans that have been amended by the PSRB at Board meetings. James Clark noted that it is rare for ASH staff to decline to agree with a PSRB amendment to a conditional release treatment plan.

Michael Klemens stated that he had a concern about the nature of this problem. He expressed that he would hate to have to deny a conditional release plan for a patient due to a typo, or in an instance where the Arizona State Hospital is requesting levels three and four, but the Board would only accept level three.

Susan Stevens stated that it would be important to meet with Arizona State Hospital in order to explain what is exactly meant in the email that was written by Erin Cohen.

Acceptable Alternatives for Compliance for Community Released Individuals during COVID-19 Pandemic:

Jaime Shapiro stated that within this document, there are multiple alternatives for patients to stay compliant while social distancing and limiting face-to-face contact.

James Clark made a motion, seconded by Gwenn Levitt, and passed unanimously to approve the Acceptable Alternatives for Compliance for Community Released Individuals during COVID-19 Pandemic, in the duration of this emergency.

Staffing Updates:

James Clark thanked Jaime Shapiro on behalf of the Board for her diligence, dedication and service.

Hannah Garcia introduced herself to the Board and participants on the line.

Discussion, Amendment, and Approval of Minutes:

Open and executive session minutes from the January 31, 2020, meeting:

James Clark made a motion, seconded by Gwenn Levitt, voted 3-0-2 to accept the open and executive session minutes from January 31, 2020 as amended.

Open and executive session minutes from February 28, 2020, meeting:

James Clark made a motion, seconded by Paul O'Connell, voted 4-0-1 to accept the open and executive session minutes from February 28, 2020 as amended.

Identification of Future Agenda Items

Adjournment:

The Board meeting adjourned 2:44 p.m.