



Psychiatric Security Review Board

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ARIZONA STATE PSYCHIATRIC SECURITY REVIEW BOARD GENERAL SESSION MINUTES February 24, 2017

Members:

James Clark, M.D., Chairperson
Susan Stevens, Esq.
Paul O'Connell

Assistant Attorneys General:

Thomas Raine, Esq., for the Psychiatric Security Review Board
Louis Caputo, Esq., for the Arizona State Hospital

Staff:

Jaime L. Shapiro, Executive Director

Guests Present and/or Participating:

Aaron Nelson, ASH	Ilene Porter, ASH
Adam Huebner	John W. Blischak, Esq., Defense Attorney
Alexandra Martinez, ASH	Juan Corea
Alice Pickering, ASH	Julie Jackson, ASH
Andrew J. Blischak, Esq., Defense Attorney	Kaitlyn Carr
Brad Bransky, Esq., Coconino County Public Defender	Kelly Walsh, ASH
Brian Bohan, Esq., Pinal County Public Defender	Kimberly Boersema, ASH
Brian Canty ☎	Leon Canty, III
Cammie Hanratty, ASH	Leon Canty, Jr. ☎
Christie Saracino, ASH	LeRaymond Hollins
Diane Wagner, ASH	Manuel Gray, La Frontera
Enoch Boyd	Margaret McLaughlin, ASH
Eva Kovacs, Hope Lives	Melissa Falls, ASH
	Patrina Yazzie, MMIC
	Ronald D. Wood, Esq., Defense Attorney

Rose Winkler, Esq., Coconino Deputy
County Attorney
Samantha Miller, ASH
Sandra M. Carr, Esq., Defense Attorney
Sheri Ann Zulpo

Summer Schneider, Psy.D., ASH
Tammy Wray, Esq., Maricopa County
Public Defender
Victoria Johnson

☎ Participated Telephonically

Call To Order

James Clark called the meeting to order at 1:07 p.m., 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 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

Anthony William Watsula – PSRB No. 09-13

Anthony Watsula was present with his attorney, Tammy Wray. The statutory hearing was held from 1:09 p.m. to 1:35 p.m. pursuant to Arizona Revised Statutes (A.R.S.) § 13-3994(H). ASH recommended conditional release to the community.

James Clark summarized that Mr. Watsula came before the Board in November of 2016 when he was granted phase one, levels one and two of conditional release to the Hospital. His matter was then reset for consideration of conditional release to the community. The Board wished to hear testimony from Summer Schneider, Psy.D., who evaluated Mr. Watsula for risk in an assessment in dated November 3, 2016.

Tammy Wray said that, in November, Mr. Watsula requested to be released to the community in the care of his father. Upon further consultation with the ASH treatment team the recommendation is conditionally release Mr. Watsula to a sixteen (16) hour residence with similarly functioning residents. She added that Mr. Watsula is looking forward to building independence and self-reliance.

A motion was made by James Clark, seconded by Susan Stevens and passed 3 – 0 to recess into executive session at 1:12 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 general session at 1:28 p.m.

In open session, Jaime Shapiro mentioned that the proposed conditional release plan does not contain the newly adopted language regarding Regional Behavioral Health Authority (RBHA) monitoring, and recommended that the Board amend the plan to include the language in a motion. Ms. Wray requested that the language be read into the record and Thomas Raine read the following aloud and added that all conditional release plans will have this language moving forward.

“RBHA Monitoring: During the first 4 weeks following discharge, the patient will have minimum of weekly telephone contact with his assigned Care Manager. The Care Manager will also maintain contact with the patient's outpatient treatment team to monitor and review status and compliance with his conditional release plan. After 4 weeks, care management contacts will continue as determined by the patient's Care Manager.”

Ms. Wray asked that the RBHA care manager contact not exceed once per week. Discussion ensued among Board members, Mr. Raine and Ms. Wray regarding this condition.

A motion was made by Paul O’Connell, seconded by Susan Stevens and passed 3 – 0 to approve Anthony Watsula for conditional release to the community, and adopt the conditional release treatment plan, as amended, based on the evidence presented by the Arizona State Hospital’s Treatment Team, that Anthony Watsula’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.

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

Leon Canty was present with his attorney, Tammy Wray. The statutory hearing was held from 1:36 p.m. to 1:55 p.m. pursuant to A.R.S. § 13-3994(H). ASH recommended conditional release to the community.

Mr. Canty’s father, Leon Canty, Jr., and uncle, Brian Canty, were teleconferenced into the hearing. Dr. Clark mentioned that there were two people in the audience who wish to address the Board on behalf of Mr. Canty as well.

Eva Kovacs, Mr. Canty's primary peer support, testified that she believes Mr. Canty is ready for community reintegration as evidenced by his intelligence, insightfulness and thoughtfulness. She added that she trained Mr. Canty to be a peer support specialist and he assisted her in editing the manual for the position. Adam Huebner, Mr. Canty's sponsor, testified that Mr. Canty has completed the twelve steps and looks forward to contributing to society. Brian Canty and Leon Canty, Jr., Mr. Canty's uncle and father were sworn in. Brian Canty testified as to Leon's accomplishments in his work and efforts toward his education and recovery. Leon Canty, Jr. testified that he has always been proud of his son and the contributions he has made and pledged that he will always be available as a community and family support.

Leon Canty discussed with the Board of his many accomplishments of recovery during his time at ASH, which included learning about his illness, writing and directing a play, attaining an associate's degree and peer support specialist certificate, initiated and led therapy groups, serves as a member of the Human Rights Committee (HRC) and advocates for other patients.

A substantive discussion regarding the risk assessment began and Mr. Caputo requested an executive session.

A motion was made by James Clark, seconded by Susan Stevens and passed 3 – 0 to recess into executive session at 1:48 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 general session at 1:52 p.m.

In open session, a motion was made by Susan Stevens, seconded by Paul O'Connell and passed 3 – 0 to approve Leon Canty for conditional release to the community, and adopt the conditional release treatment plan, subject to the language read into the record regarding RBHA monitoring, based on the evidence presented by the Arizona State Hospital's Treatment Team, that Mr. Canty's mental disease or defect is in stable remission and he is not dangerous if he resides in the residential setting specified in the conditional release treatment plan and remains compliant with the terms of conditional release and the treatment plan presented today.

Sheri Ann Zulpo – PSRB No. 09-16

Sheri Zulpo was present with her attorney, Brad Bransky, who was present telephonically. The statutory hearing was held from 1:56 p.m. to 2:02 p.m. pursuant to A.R.S. § 13-3994(J).

It was unclear at that time as to whether or not the outpatient treatment team was recommending court-ordered evaluation.

Rose Winkler, Coconino Deputy County Attorney, was teleconferenced into the hearing. Dr. Clark shared that the PSRB's term of jurisdiction ends on April 4, 2017.

Brad Bransky said Ms. Zulpo has done very well and he is confident that she will have a good life. Ms. Shapiro mentioned that Manuel Gray from La Frontera was present and may be able to clarify Dr. Yilmaz's report. Dr. Clark shared that while the report submitted by Dr. Yilmaz was very positive, it did not speak directly to a recommendation regarding court-ordered evaluation. Mr. Grey stated that the team is not recommending court-ordered evaluation and Mr. Bransky and Ms. Winkler concurred. Ms. Zulpo discussed her future plans as to residence, schooling and employment.

A motion was made by Susan Stevens, seconded by Paul O'Connell and passed 3 – 0 to allow its jurisdiction over Sheri Ann Zulpo to expire without ordering the Coconino County Attorney to initiate civil commitment proceedings, based on the evidence presented by the outpatient treatment recommendation.

Tony Gene Sackman – PSRB No. 09-06

Tony Sackman was present with his attorney, Sandra M. Carr. The statutory hearing was held from 2:03 p.m. to 2:05 p.m. pursuant to A.R.S. § 13-3994(H). There was no recommendation.

Sandra Carr requested that the hearing be continued for sixty (60) days because she was recently assigned to the case and has not obtained records as of yet.

A motion was made by Paul O'Connell, seconded by Susan Stevens and passed 3 – 0 to continue the matter to the April meeting.

Joe Curtis O'Cain – PSRB No. 12-01

Joe O'Cain was present with his attorney, Andrew J. Blischak, who appeared on behalf of the assigned attorney, John W. Blischak. The statutory hearing was held from 2:06 p.m. to 2:15 p.m. pursuant to A.R.S. § 13-3994(H). ASH recommended conditional release to the Hospital: phase one; levels one and two.

Dr. Clark mentioned that Mr. O'Cain previously attained levels three and four. Mr. Raine advised that if the Board wished to formally address the reversal of privileges that it would be a better practice to do so in executive session.

Andrew J. Blischak urged the Board to follow ASH's recommendation.

A motion was made by James Clark, seconded by Susan Stevens and passed 3 – 0 to recess into executive session at 2:07 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 general session at 2:13 p.m.

In open session, a motion was made by James Clark, seconded by Paul O'Connell and passed 3 – 0 to approve Joe O'Cain 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. 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, and to revoke the previous levels of conditional release.

Enoch Lamumba Boyd – PSRB No. 15-03

Enoch Boyd was present with his attorney, Andrew J. Blischak, who appeared on behalf of the assigned attorney, John W. Blischak. The statutory hearing was held from 2:16 p.m. to 2:17 p.m. pursuant to A.R.S. § 13-3994(H). There was no recommendation.

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

LeRaymond Cheatam Hollins – PSRB No. 15-03

LeRaymond Hollins was present with his attorney, Ronald D. Wood, who appeared telephonically. The statutory hearing was held from 2:18 p.m. to 2:20 p.m. pursuant to A.R.S. § 13-3994(H). There was no recommendation.

Mr. Wood said he has been in contact with Mr. Hollins' family who are the victims of the crime and continue to be supportive of him. It is Mr. Wood's hope that Mr. Hollins will continue to work with the staff at ASH.

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

Juan Corea – PSRB No. 11-05

Juan Corea was present with his attorney, Andrew J. Blischak, who appeared on behalf of the assigned attorney, John W. Blischak. The statutory hearing was held from 2:21 p.m. to 2:22 p.m. pursuant to A.R.S. § 13-3994(H). There was no recommendation.

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

Kevin Kline Peralta *a.k.a.* Richard Volcan – PSRB No. 13-01

Kevin Peralta was present with his attorney, Andrew J. Blischak, who appeared on behalf of the assigned attorney, John W. Blischak. The statutory hearing was held from 2:23 p.m. to 2:25 p.m. pursuant to A.R.S. § 13-3994(H). There was no recommendation.

Ms. Shapiro mentioned that she heard that Mr. Peralta had changed his name to Richard Volcan and informed him that if he would submit copies of the proper paperwork she can begin to change the records moving forward.

After discussion, a motion was made by Paul O'Connell, seconded by Susan Stevens and passed 3 – 0 to deny conditional release for Kevin Peralta *a.k.a.* Richard Volcan 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. Kevin Peralta *a.k.a.* Richard Volcan shall remain committed in the Arizona State Hospital.

Isaac Bonelli – PSRB No. 03-01

Isaac Bonelli was not present, nor was an attorney present to represent him in the matter. The statutory hearing was held from 2:26 p.m. to 2:39 p.m. pursuant to A.R.S. § 13-3994(M). The PSRB considered returning Mr. Bonelli to ASH for evaluation.

Mr. Raine provided a detailed background of the matter that included that the PSRB issued an order to return Mr. Bonelli to ASH after he was arrested in 2013 on charges related possessing weapons and drug paraphernalia. He was subsequently convicted after being apprehended in New Mexico and served a few years in a federal penitentiary. Mr. Bonelli was reportedly released to Maricopa County on the assumption that the State of Arizona would pursue the same charges, however, the State dropped the charges and Mr. Bonelli was freed in December of 2016.

Mr. Raine informed the Board that if the Board chooses to re-issue an order for return, the Pima County Attorney's Office would turn the order into a judicial warrant, which would go to the State of Texas where Mr. Bonelli would be apprehended so the extradition process could begin. Discussion was held about the potential grounds in which the Board shall order the return of a person to ASH.

A motion was made by James Clark, seconded by Susan Stevens and passed 3 – 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 consideration in executive session, the Board reconvened in general session at 2:39 p.m.

The Board took a break from 2:40 p.m. to 2:42 p.m.

After discussion, a motion was made by James Clark, seconded by Susan Stevens and passed 3 – 0 to issue an order to return Isaac Bonelli to ASH for evaluation and treatment, based on the evidence presented that Mr. Bonelli's mental health may have deteriorated and Mr. Bonelli may be dangerous; Mr. Bonelli shall remain at ASH pending a hearing to determine whether release will be revoked.

Discussion, Consideration and Possible Action Related to:

Verbal update on the status of Ernesto Arocha; PSRB Case No. 99-12:

Ms. Shapiro informed the Board that Ernesto Arocha passed away at his home on February 11 of natural causes.

Verbal update on the status of Barbara Downey; PSRB Case No. 99-17.

Ms. Shapiro informed the Board that Steven Dingle, Chief Medical Officer of ASH informed her that ASH could no longer fulfill its obligation to conduct two random urine drug screens per year, pursuant to Ms. Downey's September 9, 2015, Order of Conditional Release and asked the Board how they would prefer to proceed. Dr. Clark mentioned that he researched

the UDS issue and asked if it would be appropriate for him to inform Mr. Downey's attorney what he learned. Mr. Raine said that would be appropriate and suggested that the Board agendaize the matter as a statutory hearing next month.

Verbal update from Executive Director and executive session for legal advice from the Board's Attorney regarding administrative processes:

Ms. Shapiro shared that because Dr. Dingle directed her to filter all communications to and from ASH through ASH's legal department, this has caused an administrative bottleneck where communications are not being responded to in a timely manner or not at all, and is greatly slowing production down. Ms. Shapiro added that a meeting has been scheduled on March 20th, with ASH staff to discuss the challenges. Dr. Clark added that he had a similar experience and wishes to have a collegial partnership with ASH. Lou Caputo added that ASH is absolutely willing to give the information the Board needs and is willing to discuss how to achieve that in an efficient manner. Mr. Caputo added that ASH will often take a cautious approach when matters are to be addressed in public.

Tammy Wray shared that, while she does not speak for all patients and their attorneys, she sees a need for Dr. Clark to discuss administrative and procedural matters with Dr. Dingle. However, because the Hospital provides the evidence that the Board bases decisions upon, it's important that those discussions take place in open session. Ms. Stevens added that the late packet submissions are disruptive to a Board member who volunteers their time to the State and holds a full time job.

Verbal update regarding the transition of oversight of conditionally released persons in the community from ASH to AHCCCS:

Ms. Shapiro reminded the Board that in February, Gregory Honig, AHCCCS's legal counsel, informed the Board that he, Mr. Raine and Mr. Caputo would work together to amend the terms of conditional release for folks in the community. Since then, there was a change and the onus fell on Ms. Shapiro and Mr. Raine. She added that the new terms have been drafted and the Board answered a few questions she had on a few specifics. Mr. Raine added that once finalized, Ms. Shapiro will send the drafts out to the defense attorneys for approval. Mr. Caputo added that he appreciated that the PSRB completed the task.

Records Retention:

Ms. Shapiro shared that on December 16, 2016; the Board voted that "patient face-sheets and the most recent risk assessment shall be retained on a permanent basis..." Soon after the meeting, her contact at Arizona Library, Archives and Public Records (LAPR) said without legal justification and citation, LAPR will likely reject the request to retain a record permanently. LAPR recommended a 50 or 70 year retention to cover a person's lifetime. In

lieu of submitting the retention schedule for approval to have it rejected, she brought this matter back to the Board for reconsideration. In addition, a modified motion will avoid an administrative burden of PSRB staff isolating different items in the patient files in order to follow multiple retention schedules.

A motion was made by James Clark, seconded by Susan Stevens and passed to rescind the December 16, 2016 motion: “patient face-sheets and the most recent risk assessment shall be retained on a permanent basis...” and to retain face sheets and risk assessments for 10 years.

Draft 2016 Annual Report:

Dr. Clark discussed some data he wanted to add to the report. The Board informed Ms. Shapiro that they would like to review each annual report prior to release for public consumption and directed Ms. Shapiro to post it online.

Placing language on the Notices of Hearings indicating that motions to continue shall be submitted in writing and noticed to all parties at least 72 hours prior to a hearing:

Ms. Wray brought this matter to Mr. Raine’s attention and asked that the Board consider an operational rule regarding motions to continue as a matter of course. Absent good cause or new information being presented at the hearing, she believes it would be more efficient for the Board. Ms. Wray cited the stress for the patients, victims, family members, attorneys, and monies paid to expert witnesses, all of whom prepare for testimony. Discussion ensued between Board members, Board staff and Ms. Wray. Mr. Raine said he would like to research open meeting law and agendize it for April. Mr. Caputo suggested that Mr. Raine take into consideration the twenty-four (24) agenda rule in open meeting law.

Board Election of a Vice-Chairman:

The Board deferred this matter until the vacancies are filled.

Discuss, Amend And Approve Minutes:

General Session and Executive Session Minutes from the December 16, 2016, meeting:

The Board deferred this matter until next month.

Adjournment:

The meeting was adjourned at 3:23 p.m.