



Psychiatric Security Review Board

150 N. 18th Ave., Suite 410
Phoenix, AZ 85007
Phone: 602-364-3061

DOUGLAS A. DUCEY, GOVERNOR
JAMES P. CLARK, M.D., CHAIRPERSON
www.azdhs.gov/psrb

ARIZONA STATE PSYCHIATRIC SECURITY REVIEW BOARD OPEN SESSION MINUTES

June 28, 2019

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

Members:

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

Assistant Attorney General:

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

Staff:

Jaime L. Shapiro, Executive Director

Guests Present and/or Participating:

| | |
|-----------------------------------|-------------------------------------|
| Allison Collins, NAU | Jennifer Gebhart, Esq. |
| Amado Salas | Jill Early, Plan of AZ |
| Amanda Brimlow, Psy.D., ASH | John Blischak, Esq. |
| Amy Bacon, Steward HealthChoice | Josephine Jones, Esq. |
| Ashley Blum, Esq. | Josh Cruz |
| Brian Beckett, La Frontera-EMPACT | Katelyn Miller, Esq. |
| Calvin Spencer | Kayla Sepe |
| Christal Gutierrez, Plan of AZ | Lori Janik, Arizona Burn Foundation |
| Cole Arigoni, Mercy Care | Madison Gardener, ASH |
| Crosita Molina, Esq. | Maryann Alizadeh, ASH |
| Cynthia Hostetler, AHCCCS | Megan Prather |
| Elise Hayslip | Michael Penrod, Esq. ☎ |
| Garrett Whiting, Esq. | Michael Robinson |
| Jandely Eich, ASH | Mireya Lopez |

Noor Jibrael, ASH
Nora Greer, Esq.
Raymond Vaca, Jr., Esq.
Stacey Heard, Esq.

Stefanie Jones-Campbell, Esq.
Steven Kwoh, M.D., ASH
Telly Rivenburgh, AzCH

☎ Telephonic participation

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.”

Dr. Clark swore in individuals who anticipated testifying.

Summary of Current Events

Dr. Clark informed the Board members that, because the Board is down a member, it would be helpful to notify Board staff at the beginning of the month if they are able to participate in each Board meeting so she can be sure to establish a quorum.

Jaime Shapiro announced that she will be on leave the following week and orders will not be issued until the week of July 8th.

Statutory Hearings:

Kassandra Monique Toruga – PSRB No. 12-06

Kassandra Toruga was present in person and through counsel, Stefanie Jones-Campbell. The statutory hearing was held from 1:06 p.m. to 1:30 p.m. pursuant to A.R.S. § 13-3994(J). ASH recommended expiration of jurisdiction with no further action.

Dr. Clark stated that Ms. Toruga’s sentence expires on August 1, 2019. Stefanie Jones-Campbell stated that Ms. Toruga has come a long way during her hospital stay. Ms. Toruga discussed her discharge plan with the Board.

A motion was made by Michael Klemens, seconded by Paul O'Connell, and passed 4 – 0 to recess into executive session at 1:10 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 1:17 p.m.

In open session, Angelique Robledo, victim of the crime, testified as to her concern for discharging Ms. Toruga without a court-ordered evaluation for civil commitment. Prior to the commission of the crime, Ms. Toruga had stopped her medication, and Ms. Robledo felt that she should be ordered by a court to comply with treatment.

Stacey Heard expressed the Pinal County Attorney's Office position from a community protection standpoint, specifically the apparent lack of transition from the most restrictive to a least restrictive environment.

Stefanie Jones-Campbell argued that Ms. Toruga is willing and able to accept treatment, and does not meet criteria for civil commitment and that a transitional treatment plan is in place.

Susan Stevens asked what happens if Ms. Toruga fails to comply with treatment post-discharge, and Ms. Jones-Campbell stated that she could be petitioned for court-ordered treatment by her outpatient team.

Dr. Klemens added that he believes it would be beneficial if Ms. Toruga was evaluated for ACT team assignment.

A motion was made by James Clark, seconded by Michael Klemens, and passed 3 – 1 for the PSRB to allow its jurisdiction over Kassandra Toruga to 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. Toruga to a residential setting in the community up to five business days prior to the PSRB's jurisdiction expiration date.

Susan Stevens opposed the motion because the report submitted to the Board a year ago noted issues.

Dr. Clark noted that he would prefer that ASH treatment staff would be present at the hearings.

Michael Gene Robinson – PSRB No. 10-07

Michael Robinson was present in person and through counsel, Katelyn Miller, who appeared on behalf of assigned attorney, Trent R. Buckallew. The statutory hearing was held from 1:31 p.m. to 1:33 p.m. pursuant to A.R.S. § 13-3994(J). The PSRB's jurisdiction over Mr. Robinson expires on August 3, 2019, and the outpatient treatment team recommended no further action.

Katelyn Miller stated that Mr. Robinson is doing well and she agreed that no further action is needed.

A motion was made by Susan Stevens, seconded by Paul O'Connell, and passed 4 – 0 to allow its jurisdiction over Michael Robinson expire without ordering the County Attorney to initiate civil commitment proceedings based on the evidence presented.

Gracie Moses Verduzco – PSRB No. 01-13

Gracie Verduzco was in person and through counsel, Nora Greer. The statutory hearing was held from 1:33 p.m. to 1:43 p.m. pursuant to A.R.S. § 13-3994(H). This was a two-year hearing and there was no recommendation.

Nora Greer stated that Ms. Verduzco would like to be released without conditions from ASH. Ms. Verduzco stated that she disputes the report on her mental health and that she was under control of the devil during the commission of her crime.

Dr. Clark asked if ASH was pursuing guardianship for Mr. Verduzco, and James Holmes stated that, at this time, they were not.

Ms. Verduzco stated that she is now stable and added that she is being given medication that is causing irreversible damage to her.

A motion was made by Paul O'Connell, seconded by Susan Stevens, and passed 4 – 0 to deny conditional release for Gracie Verduzco based on the evidence presented by the Arizona State Hospital's treatment team, that Ms. Verduzco did not prove by clear and convincing evidence that she no longer suffers from a mental disease or defect, that the mental disease or defect is in stable remission and that she is no longer dangerous. Gracie Verduzco shall remain committed to the Arizona State Hospital.

Amado Salas – PSRB No. 02-06

Amado Salas was present in person and through counsel, Ashley Blum, who appeared on behalf of assigned attorney, Tammy Wray. The statutory hearing was held from 1:44 p.m. to

1:52 p.m. pursuant to A.R.S. § 31-502(A)(5) and (B)(4). The outpatient treatment team requested a reduction in medication monitoring.

Ashley Blum highlighted that Mr. Salas has been medication-compliant since his discharge from ASH. She stated that getting to the clinic for medication observations by 5 p.m. is interfering with his job, which is his only source of livelihood. The outpatient treatment team did add in their request that they would review his med logs with him during case management service appointments, and he will continue to receive injectables.

A motion was made by James Clark, seconded by Susan Stevens, and passed 4 – 0 to recess into executive session at 1:45 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 1:51 p.m.

In open session, a motion was made by Michael Klemens, seconded by Paul O’Connell, and passed 4 – 0 to approve the reduction in medication monitoring as recommended by the outpatient treatment team.

Kelly Louise Blake – PSRB No. 01-10

Kelly Blake was present in person and through counsel, Ashley Blum, who appeared on behalf of assigned attorney, Tammy Wray. The statutory hearing was held from 1:53 p.m. to 1:56 p.m. pursuant to A.R.S. § 13-3994(H). ASH recommended a modification to the list of approved pass supervisors.

Ms. Blum asked the Board to approve the recommendation and discussed how much the equine therapy is helping Ms. Blake. She added that Lori Janik from the Arizona Burn Foundation has provided services to Ms. Blake on ASH grounds and wishes to take her off-grounds to assist in community reintegration.

Dr. Klemens commented that he did not see attestations for the proposed pass supervisors in the record, and an unidentified ASH staff member stated they exist but there were technical email issues.

A motion was made by Susan Stevens, seconded by Paul O’Connell, and passed 4 – 0 to approve the addition of Lori Janik and Christal Simon-Gutierrez to the list of approved pass supervisors, based on evidence presented that Ms. Blake continues to remain in stable remission and not dangerous if she continues on conditional release to ASH, phase two, level three.

Dr. Clark commented that he appreciates ASH's creativity and willingness to set up such a treatment plan.

Mireya Alejandra Lopez – PSRB No. 17-10

Mireya Lopez was present in person and through counsel, Ashley Blum. The statutory hearing was held from 1:57 p.m. to 2:00 p.m. pursuant to A.R.S. § 13-3994(F). This was an initial hearing and there was no recommendation at that time.

Ms. Blum stated that Ms. Lopez is doing exceptionally well and it appears that she will be appearing before the Board in the coming months with a recommendation for increased privilege levels.

A motion was made by James Clark, seconded by Susan Stevens, and passed 4 – 0 to deny conditional release for Mireya Lopez based on the evidence presented by the Arizona State Hospital's treatment team, that Ms. Lopez did not prove by clear and convincing evidence that she no longer suffers from a mental disease or defect, that the mental disease or defect is in stable remission and that she is no longer dangerous. Ms. Lopez shall remain committed to the Arizona State Hospital.

Faraz Ahmad – PSRB No. 14-05

Faraz Ahmad was not present and, his attorney, John W. Blischak waived his presence. The statutory hearing was held from 2:01 p.m. to 2:04 p.m. pursuant to A.R.S. § 13-3994(H). This was a two-year hearing and there was no recommendation at that time.

Erin Cohen informed the Board that there was a medication change since the time the report was written.

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

Jamarall Jordan – PSRB No. 04-01

Jamarall Jordan was present in person and through counsel, John W. Blischak. The statutory hearing was held from 2:05 p.m. to 2:19 p.m. pursuant to A.R.S. § 13-3994(H). This was a two-year hearing and the outpatient treatment team recommended a 24-month standing travel order.

Mr. Blischak stated that Mr. Jordan has always complied with the travel orders he has been granted in the past and urged the Board to approve this request.

A motion was made by James Clark, seconded by Michael Klemens, and passed 4 – 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 discussion in executive session, the Board reconvened in open session at 2:13 p.m.

In open session, Dr. Klemens asked the treatment team as to why they support the recommendation. Brian Beckette stated that, given his long-standing compliance, he believes it is appropriate that the treatment team should approve his travel requests. Mr. Blischak added that attendance at Board meetings interrupts Mr. Jordan's work schedule. Mr. Jordan clarified that he travels out of state approximately twice per year, and once per year in-state.

Ms. Shapiro pointed out that there is a precedent in Board history for a 24-month standing travel order.

A motion was made by James Clark, seconded by Paul O'Connell, and passed 4 – 0 to deny the request for a 24-month standing travel order because two years is too great a period of time and to continue the practice of the Board approving each out-of-state travel request.

After discussion, a motion was made by James Clark, seconded by Susan Stevens, and passed 4 – 0 for no status change to the terms of conditional release for Jamarall Jordan, based on the evidence presented that Mr. Jordan remains in stable remission and not dangerous.

Calvin Spencer – PSRB No. 15-10

Calvin Spencer was present in person and through counsel, Raymond Vaca, Jr. The statutory hearing was held from 2:20 p.m. to 2:28 p.m. pursuant to A.R.S. § 13-3994(H). This was a two-year hearing and there was no recommendation at that time.

Raymond Vaca stated that although Mr. Spencer's agitation has decreased, he understands there is still room for improvement, and there have been no major rule violations.

Dr. Klemens asked the about mention in the report of sexually inappropriate behavior.

A motion was made by Michael Klemens, seconded by Susan Stevens, and passed 4 – 0 to recess into executive session at 2:21 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, seconded by Susan Stevens, and passed 4 – 0 to deny conditional release for Calvin Spencer based on the evidence presented by the Arizona State Hospital’s treatment team, that Mr. Spencer 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. Calvin Spencer shall remain committed to the Arizona State Hospital.

Jarred Ray Mangum – PSRB No. 18-03

Jarred Mangum was present in person and through counsel, Michael Penrod, who appeared telephonically on behalf of assigned attorney, Benjamin Brewer. The statutory hearing was held from 2:29 p.m. to 2:35 p.m. pursuant to A.R.S. § 13-3994(F) and (J). This was an initial hearing and expiration hearing and ASH recommended no further action upon expiration.

Michael Penrod was teleconferenced into the hearing.

Dr. Clark explained that ASH was not recommending a court-ordered evaluation for civil commitment because he is already under a court-order for treatment secondary to a determination of grave disability. ASH is also recommending that Mr. Mangum is transferred to the civil campus of ASH upon jurisdiction expiration.

Mr. Penrod had no objection to further treatment under the current court order. Ms. Cohen confirmed that Mr. Mangum will remain at ASH after the PSRB’s jurisdiction ends.

A motion was made by James Clark, seconded by Susan Stevens, and passed 4 – 0 to allow its jurisdiction over Jarred Mangum to expire without ordering the County Attorney to initiate civil commitment proceedings, based on the evidence presented that Mr. Mangum is currently under an order for treatment for grave disability.

Discussion and Possible Action Related to:

Medication monitoring of persons conditionally released to the community via Skype:

Cole Arigoni informed the Board that he is no longer requesting to utilize Skype because the outpatient treatment clinics are not properly equipped. Dr. Klemens commented that Skype is typically not HIPAA compliant. Dr. Clark felt that medication monitoring via Skype

would make it too difficult to detect “cheeking” of meds and there is a lot to be said for direct observation in terms of assessment of the home situation.

Rule violations at ASH:

Dr. Clark stated he was not sure exactly what the chief medical officer’s comments mean when he said there are is standard at ASH regarding what constitutes a rule violation, and that he believes it is a “community standard”. Ms. Stevens commented that it would be helpful if the Board members knew what was expected of ASH patients so the Board could understand what qualifies as a rule violation. She added that if the rules are clear, then violations are, too. Dr. Klemens asked if there might be a patient handbook in existence, but no ASH staff were present to comment.

Dr. Clark stated that several of the reports the Board receives each month comment on rule violations, so clearly, in the minds of the treating staff, there are rules. Ms. Stevens added that one report noted that a patient punched a staff member, but when the Board questioned staff, it was not considered a rule violation.

Dr. Clark stated he would like to challenge ASH to come up with a standard of unacceptable and non-allowable behaviors. The Board members agreed that they would not want to remove the question of rule violations on the status reports.

Extensive discussion ensued and the Board concluded that in order to follow rules, the patients need to know the rules.

Review of draft policies in response to the Auditor General’s findings:

Mental Health Reports

Risk Assessments

Setting Hearings

Definitions

Board members held extensive discussion and made edits to the draft policies.

Executive session for legal advice pursuant to A.R.S. § 38-431.03(A)(3) regarding Jill Manahan’s settlement proposal for Case No. LC2018-000217-001 DT:

A motion was made by James Clark, seconded by Michael Klemens, and passed 4 – 0 to recess into executive session at 3:05 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 3:20 p.m.

Jill Manahan's settlement proposal for Case No. LC2018-000217-001 DT:

Holly Gieszl, Jill Manahan's attorney, was present and stated that Ms. Manahan offers a settlement proposal to dismiss the appeal with prejudice if the Board allows Ms. Manahan to partner with the PSRB in implementing the Auditor General's recommendation that the Board engage in rule-making.

Dr. Clark stated the Board welcomes anyone's opinion when it comes to implementing the Auditor General's recommendations, and informed Ms. Gieszl that she is free to submit her ideas to the Board. Dr. Clark added the Board has not reached the point of holding formal stakeholder meeting at this point, so he is reluctant to agree to the proposed settlement.

Discussion, Amendment and Approval of Minutes:

Open session minutes from the May 31, 2019, meeting:

Executive session minutes from the May 31, 2019, meeting:

Because Chandrika Shankar is no longer on the Board, there will never be a quorum to approve the executive session minutes.

A motion was made by James Clark, seconded by Susan Stevens, to approve the May 31, 2019, open session minutes.

After discussion, the Board deferred approval of the minutes so Mr. Raine could research what normally occurs in a case like this.

Identification of Future Agenda Items:

- Draft response to the Committee of Reference
- Draft Substantive Policy Statement
- Rule violations at ASH

Adjournment:

The Board meeting was adjourned 3:41 p.m.