



Psychiatric Security Review Board

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

ARIZONA STATE PSYCHIATRIC SECURITY REVIEW BOARD OPEN SESSION MINUTES June 22, 2018

Members:

James P. Clark, M.D., Chairperson
Chandrika Shankar, M.D., Vice-Chairperson
Susan Stevens, Esq.
Paul O'Connell
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:

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|---|---------------------------------|
| Aaron Nelson, ASH | Jessica Lamar, ASH |
| Amber Myers | Joseph Stewart, Esq. |
| Billie Jo Peters | Katie Williams, ASH |
| Brian Beckette, LA Frontera-EMPACT | Lindsey Arendt, ASH |
| Brian Bohan, Esq. | Lynette Cross, Argosy |
| Brian Kociszewski, AHCCCS | Lynn Russell |
| Brianna Galvan, Argosy | Manuel Gray, La Frontera-EMPACT |
| Catherine Dahlquist, Auditor General's Office | Nicole Floyd, ASH |
| Cole Arigoni, MMIC | Nora Greer, Esq. |
| Cyndi Hofstetter, AHCCCS | Stacey Heard, Esq. ☎ |
| Dawood Mulla, M.D., ASH | Steven Harvey, Esq. |
| Diane Wagner, ASH | Susan Slasor |
| Edith Strang ☎ | Tammy Wray, Esq. |
| Gabriela Reyes, ASH | Telly Rivenburgh, Cenpatico |
| | Thomas Salow, ADHS |

Tracy Linkes

☎ Participated by Telephone

Call To Order:

James P. Clark called the meeting to order at 1:01 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.

Ms. Shapiro stated that, pursuant to Arizona’s Open Meeting Laws, the PSRB will make a reasonable effort to ensure that no recording devices enter the executive session by prohibiting cellphones, briefcases, backpacks, and handbags in the executive session room.

Discussion, Consideration and Possible Action Related to:

Executive session for legal advice regarding content of PSRB materials submitted by ASH:

A motion was made by James Clark, seconded by Susan Stevens, and passed unanimously to recess into executive session at 1:04 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 1:17 p.m.

Statutory Hearings:

Justin Michael Strang – PSRB No. 08-01

Justin Strang was present with his attorney, Tammy Wray. The statutory hearing was held from 1:18 p.m. to 1:23 p.m. pursuant to A.R.S. § 13-3994(J). The PSRB’s jurisdiction ends on July 18, 2018, and ASH recommended expiration with no further action.

Edith Strang, Mr. Strang’s mother, was teleconferenced into the hearing. Dr. Clark commended Summer Schneider on her report. Louis Caputo stated that ASH had nothing to add to the report. Tammy Wray stated that Mr. Strang’s symptoms have been in remission for about three and a half years and he has excellent family supports. Mrs. Strang stated that

she is a registered nurse and is prepared to oversee the care of her son. She will come to Arizona to bring her son home to Virginia, and see to it that his outpatient care is in place there.

A motion was made by Susan Stevens, seconded by Paul O'Connell, and passed unanimously that the PSRB allow its jurisdiction over Justin Strang to expire without ordering the County Attorney to initiate civil commitment proceedings based on the evidence presented by the Arizona State Hospital's treatment team.

Christopher Michael Gonzales – PSRB No. 16-08

Christopher Gonzales was present with his attorney, Steven Harvey. The statutory hearing was held from 1:24 p.m. to 1:40 p.m. pursuant to A.R.S. § 13-3994(H). There was no recommendation at that time.

Officer Andrew Radford was teleconferenced into the hearing. Dr. Clark shared that the Board's materials contained an email chain that showed that Board staff requested a risk assessment mentioned in the psychiatric report on behalf of the Board, and ASH staff declined to provide it.

Officer Radford was sworn in. Mr. Caputo stated that ASH had nothing to add. Mr. Harvey shared that his client wishes to stay at ASH under the current conditions.

Dr. Clark asked Mr. Caputo to provide clarification as to why the risk assessment was not provided. Mr. Caputo said he was not quite sure why and advised the Board of their function. Dr. Clark commented that the Board has no interest in an adversarial relationship with ASH over information that is provided or not provided. The Board places great weight on the psychiatric reports; however, the risk assessments are like a separate set of eyes on a case. Risk assessments are viewed by the Board as are comprehensive, detailed, well-reasoned, and the rationale is well-explained for the conclusions that are reached. The Board views itself as an independent arbiter and the legislature in its wisdom in creating the GEI statutes and PSRB envisioned that it would be an independent arbiter regarding assessing risk. Dr. Clark shared that, like ASH, the PSRB is concerned with public safety and protection, and the PSRB's evidentiary standard is clear and convincing, which is a high standard. The risk assessments, when they're submitted, help the Board meet this standard. It is in ASH's best interest, the patients' best interest, and the Board's best interest that the Board has access to risk assessments when they exist. Additionally, logic would dictate that if a risk assessment was supportive of a conditional release recommendation, that ASH should have no problem providing it. Thus, the Board wonders what a risk assessment concludes when ASH has declined to provide it. Going forward, if a patient is recommended

for conditional release, and a risk assessment has been completed but not provided, Dr. Clark stated that he would move to continue the hearing until it can be reviewed. Dr. Clark asked for other comments.

Mr. Caputo opined that the Board is discussing a topic outside the scope of the agenda. Dr. Klemens explained to Mr. Caputo that Dr. Clark's remarks relate to this case because there was a risk assessment completed, the psychiatric report directs the Board to refer to the risk assessment. However, ASH declined to provide it which leaves a gap in information about a patient under the Board's jurisdiction. Dr. Klemens stated that this is concerning as to: why it is being withheld; what information might be contained in the report, whether positive or negative; and what the motivation of ASH is in declining to provide it. Dr. Klemens stated that he is interested in seeing risk assessments, if completed, regardless of whether one is being presented for conditional release or not. The PSRB is looking at whether an individual is eligible or not for conditional release. The PSRB most often agrees with an ASH recommendation and there have been times that the PSRB believed that someone was ready for conditional release when, perhaps, ASH was less sure. Dr. Klemens concluded that if a risk assessment has been completed, it is imperative that the Board have access to that information regardless of the recommendation of ASH.

Officer Radford questioned how the Board could do their job without a compelling piece of information such as an assessment of risk.

Dr. Klemens asked if a patient is required to address factors of the index crime in order to advance in privileges. James Holmes stated that it is expected if the mitigation of those factors are important in order to move forward.

A motion was made by Paul O'Connell, seconded by Susan Stevens, and passed 4 – 0 – 1 to deny conditional release for Christopher Gonzales based on the evidence presented by the Arizona State Hospital's treatment team, that Mr. Gonzales 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. Christopher Gonzales shall remain committed to the Arizona State Hospital.

Michael Klemens abstained from the vote due to the lack of information in reference to ASH declining to provide Mr. Gonzales's risk assessment.

Rickey Farrell Russell – PSRB No. 09-05

Rickey Russell was present with his attorney, Joseph Stewart. The statutory hearing was held from 1:41 p.m. to 1:52 p.m. pursuant to A.R.S. § 13-3994(H). This two-year hearing was continued from February and April; ASH had no recommendation.

Dr. Clark stated that Mr. Stewart had filed a motion to continue today's hearing because the independent evaluation had not yet been completed. Mr. Stewart shared that the evaluator had not received the records requested from ASH in time to complete the evaluation for this hearing. ASH had no position on the motion to continue. Discussion ensued.

A motion was made by Susan Stevens to continue the hearing for 60 days. After discussion, Ms. Stevens amended her motion to continue the hearing to September. Chandrika Shankar seconded the motion and it passed unanimously.

Kassandra Monique Toruga – PSRB No. 12-06

Kassandra Toruga was present with her attorney, Brian Bohan, who appeared on behalf of assigned attorney, Stefanie Jones-Campbell. The statutory hearing was held from 1:53 p.m. to 1:58 p.m. pursuant to A.R.S. § 13-3994(H). This two-year hearing was continued from January and March; ASH had no recommendation.

Dr. Clark asked Mr. Caputo why the risk assessment completed in 2015 was not provided for the Board to review. Mr. Caputo said he is not authorized to comment.

After discussion, a motion was made by Susan Stevens, seconded by Chandrika Shankar, and passed unanimously to deny conditional release for Kassandra Toruga based on the evidence presented by the Arizona State Hospital's treatment team that Ms. Toruga 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. Toruga shall remain committed to the Arizona State Hospital.

Bradley Lannon Ware – PSRB No. 14-01

Bradley Ware was present with his attorney, Nora Greer. The statutory hearing was held from 1:59 p.m. to 2:13 p.m. pursuant to A.R.S. § 13-3994(H). This was a two-year hearing; ASH had no recommendation.

Amber Myers was teleconferenced into the hearing and testified that her family continues to suffer the effects from the murder of her partner and requested that the Board continue to confine Mr. Ware.

Nora Greer stated that her client is committed to recovery, cooperative with treatment, and is working through college courses.

A motion was made by James Clark, seconded by Susan Stevens, and passed unanimously to recess into executive session at 2:02 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 2:12 p.m.

In open session, a motion was made by Paul O'Connell, seconded by Susan Stevens, and passed unanimously to deny conditional release for Bradley Ware based on the evidence presented by the Arizona State Hospital's treatment team, that Mr. Ware 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. Ware shall remain committed to the Arizona State Hospital.

Billie Jo Peters – PSRB No. 03-09

Billie Jo Peters was present with her attorney, Tammy Wray. The statutory hearing was held from 2:15 p.m. p.m. to 2:38 p.m. pursuant to A.R.S. § 13-3994(H). The outpatient treatment team recommended independent administration of medications.

Tracy Linkes, Ms. Peter's sister, was teleconferenced into the hearing. Ms. Wray pointed out Ms. Peters is moving toward greater independence and is very good at recognizing and advocating for her needs. Ms. Wray added that Ms. Peters' had recently begun individual therapy again.

After discussion, a motion was made by James Clark, seconded by Susan Stevens, and passed unanimously to recess into executive session at 2:20 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 2:34 p.m.

In open session, a motion was made by Michael Klemens, seconded by Chandrika Shankar, and passed unanimously that no changes be made to the current medication regimen with regard to frequency in observation.

After the vote, Dr. Clark swore in Ms. Linkes and she testified that Ms. Peters has proven to be responsible, has had no issues at her residence, remembers her medications without prompts, and attends group therapies and meetings daily. Dr. Clark asked the Board

members if Ms. Linkes' comments affected the Board in terms of the motion and none of the Board members wished to change their vote.

Discussion, Consideration and Possible Action Related to:

ASH request to omit ASH staff members' names on PSRB agendas:

Dr. Clark stated that he had no objection. Mr. Raine said it is a historical practice for a quick reference, and is not required by law.

Ms. Wray commented that she planned to request that personal patient information be redacted from public records, such as dates of birth and providers' names, and she believes that this type of information could potentially put patients at risk. Discussion ensued.

A motion was made by James Clark, seconded by Susan Stevens, and passed unanimously to remove ASH staff names from future agendas.

Sunset Review update:

No discussion was held.

Discussion, Amendment and Approval of Minutes:

Open session minutes from the May 25, 2018, meeting:

A motion was made by Susan Stevens, seconded by Paul O'Connell, and passed 4 – 0 – 1 to approve the open session minutes, as amended.

Chandrika Shankar abstained from the vote.

Executive session minutes from the May 25, 2018, meeting:

A motion was made by Paul O'Connell, seconded by Susan Stevens, and passed 4 – 0 – 1 to approve the executive session minutes, as amended.

Chandrika Shankar abstained from the vote.

Identification of Future Agenda Items:

- Request to redact information from PSRB public records.
- Dr. Klemens added the individualized contact to Board members from ASH staff.
- Dr. Clark added risk assessments and Mr. Raine said he would speak with Mr. Caputo to request that Dr. Dingle participate in the discussion.

Adjournment:

The Board meeting was adjourned at 2:54 p.m.