



Psychiatric Security Review Board

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ARIZONA STATE PSYCHIATRIC SECURITY REVIEW BOARD

OPEN SESSION MINUTES

July 27, 2018

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

Members:

James P. Clark, M.D., Chairperson
Chandrika Shankar, M.D., Vice-Chairperson 
Susan Stevens, Esq. 
Paul O'Connell
Michael J. Klemens, Ph.D.

 Absent

Assistant Attorney General:

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

Staff:

Jaime L. Shapiro, Executive Director

Guests Present and/or Participating:

Aaron Nelson, ASH	Clayton Mathiesen
Amanda Brimlow, Psy.D., ASH	Cole Arigoni, Mercy Care
Anna Branson, Arizona Center for Disability Law	Dana Katz
Ashley Blum, Esq., Maricopa County Deputy Public Defender	Danette Cox
Audrey Reinholz	David Joslyn, ASH
Bernardo Garcia, Esq.	Debra Garland
Brian Kociszewski, AHCCCS	Diane Wagner, ASH
C.J. Grinar, ASH	Donald DeWalt
Cecil Reinholz	Emmanuel Lee, Sr.
	Erin Kaupla, ASH
	Huy Tran, ASH

Jessica Lamar, ASH
Joe Contreras
Juli Warzynski, Esq., Maricopa Deputy
County Attorney
Kendra Gort, ASH
Kennedy Klagge, Esq., Yavapai County
Public Defender ☎
Lane Gullette
Madison Gardner, ASH
Oluseyi Garland
Paula Hughes-Riccio
Rafaela Perez
Sharie Brock, Health Choice Integrated
Care ☎
Sheri Kane, Marana Mental Health

Center ☎
Sheridan Carlson, ASH
Stacey Heard, Esq., Pinal Deputy County
Attorney
Stefanie Jones-Campbell, Esq., Pinal County
Deputy Public Defender
Steven Kwoh, M.D., ASH
Tahum Garland
Telly Rivenburgh, Cenpatico
Teresa Toney
Thane Eichenauer
Virginia Contreras
Wanda DeWalt
Weihua Chen, ASH

☎ 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.

Statutory Hearings:

Charles Clifford Holmes – PSRB No. 01-18

Charles Holmes was present with his attorney, Bernardo Garcia. The statutory hearing was held from 1:02 p.m. to 1:17 p.m. pursuant to A.R.S. § 13-3994(N) and 31-502(A)(5). ASH recommended revocation of conditional release.

Erin Cohen, who appeared on behalf of Louis Caputo, stated that ASH had nothing to add. Bernardo Garcia stated that Mr. Holmes does not believe he is a danger to himself or others

at this time, has been stable on medications for over ten years, and he has a residence to be discharged to. Mr. Garcia said Mr. Holmes does not dispute the results of the drug test, however, he does dispute how he came to test positive for drugs. Mr. Garcia explained that Mr. Holmes took Sudafed which gave a false positive of the urine drug screening, was secondhandedly exposed to methamphetamine, and continues to deny knowingly ingesting methamphetamines.

Mr. Holmes stated that he has plans in place to stay safe and drug-free in a less restrictive environment. He listed social supports and discussed his plan to join a faith-based recovery group. Mr. Garcia urged the Board to reinstate conditional release.

A motion was made by James Clark, seconded by Paul O'Connell, and passed 3 – 0 to recess into executive session at 1:08 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 1:16 p.m.

In open session, Mr. Garcia stated that Mr. Holmes' family members, who are the victims of the index crime, are present and in support of reinstatement of conditional release.

A motion was made by James Clark, seconded by Paul O'Connell and passed 3 – 0 to revoke the conditional release for Charles Holmes, based on the evidence presented by the outpatient and ASH treatment teams, that Mr. Holmes failed to comply with the terms of his conditional release, and that Charles Holmes remain at the Arizona State Hospital for further evaluation and treatment.

John Paul Contreras – PSRB No. 14-14

John Paul Contreras was present with his attorney, Bernardo Garcia. The statutory hearing was held from 1:18 p.m. to 1:34 p.m. pursuant to A.R.S. § 13-3994(H). ASH recommended conditional release to the community.

Ms. Cohen stated that ASH had nothing to add. Mr. Garcia stated that Mr. Contreras has worked very hard to qualify for discharge from ASH, has taken his care and recovery seriously, and is asking that Board to follow ASH's recommendation.

Sheri Kane, Mr. Contreras' community case manager, was teleconferenced into the hearing and sworn in.

A motion was made by James Clark, seconded by Michael Klemens, and passed 3 – 0 to recess into executive session at 1:21 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 1:27 p.m.

In open session, Mr. Garcia and Mr. Contreras agreed to execute a waiver of extradition and emergency contacts prior to discharge.

A motion was made by Paul O’Connell, seconded by Michael Klemens, and passed 3 – 0 to approve John Paul Contreras for conditional release to the community, and adopt the conditional release treatment plan, based on the evidence presented by the Arizona State Hospital’s treatment team, that Mr. Contreras’s mental disease or defect is in stable remission and he is not dangerous if he resides in the dwelling specified in the conditional release treatment plan and remains compliant with the terms of conditional release and the treatment plan presented today.

After the vote, Ms. Kane asked for and received clarifications regarding the conditions of release.

Clifford Andrew Katz – PSRB No. 15-07

Clifford Katz was present with his attorney, Kennedy Klagge, who appeared telephonically. The statutory hearing was held from 1:35 p.m. to 1:51 p.m. pursuant to A.R.S. § 13-3994(H). ASH recommended conditional release to the community.

The PSRB took a break from 1:36 p.m. to 1:38 p.m.

Kennedy Klagge and Sharie Brock were teleconferenced into the hearing and Ms. Brock was sworn in.

Ms. Cohen stated that ASH had nothing to add. Ms. Klagge stated that Mr. Katz is stable and continues to do well. Discussion was held about the required paperwork for conditional release to the community.

After discussion, a motion was made by Michael Klemens, seconded by Paul O’Connell, and passed 3 – 0 to approve Clifford Katz for conditional release to the community, and adopt the conditional release treatment plan, based on the evidence presented by the Arizona State Hospital’s treatment team, that Mr. Katz’s mental disease or defect is in stable remission and he is not dangerous if he resides in the 24-hour treatment facility specified in the conditional

release treatment plan and remains compliant with the terms of conditional release and the treatment plan presented today.

Colt Baneau White – PSRB No. 12-15

Colt White was present with his attorney, Kennedy Klagge, who appeared telephonically. The statutory hearing was held from 1:52 p.m. to 1:53 p.m. pursuant to A.R.S. § 13-3994(H). There was no recommendation at that time.

After brief discussion, a motion was made by Paul O’Connell, seconded by Michael Klemens, and passed 3 – 0 to deny conditional release for Colt White based on the evidence presented by the Arizona State Hospital’s treatment team, that Mr. White 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. White shall remain committed to the Arizona State Hospital.

Joseph Caine Cecil – PSRB No. 16-07

Joseph Cecil was present with his attorney, Stefanie Jones-Campbell. The statutory hearing was held from 1:54 p.m. to 1:55 p.m. pursuant to A.R.S. § 13-3994(H). This was an initial hearing and there was no recommendation at that time.

Ms. Cohen stated that ASH had nothing to add. Ms. Jones-Campbell stated that Mr. Cecil continues to participate in recommended treatment and he has no objection to the recommendation.

A motion was made by Paul O’Connell, seconded by Michael Klemens, and passed 3 – 0 to deny conditional release for Joseph Cecil based on the evidence presented by the Arizona State Hospital’s treatment team, that Mr. Cecil 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. Cecil shall remain committed to the Arizona State Hospital.

Peter Rice Sherman – PSRB No. 10-03

Peter Sherman was present with his attorney, Stefanie Jones-Campbell. The statutory hearing was held from 1:56 p.m. to 2:03 p.m. pursuant to A.R.S. § 13-3994(H). ASH recommended a modification to approved pass supervisors.

Clayton Mathiesen stated that he has known Mr. Sherman for about two years and testified that Mr. Sherman is participative in meaningful recovery.

Dr. Klemens asked if the treatment team has attempted to expand the list of Mr. Sherman's pass supervisors. Ms. Jones-Campbell stated that there have been a few challenges but she believes the Board will be happy with Mr. Mathiesen. ASH staff clarified that Mr. Sherman's clinical status has not changed and he remains in stable remission and not dangerous.

A motion was made by Michael Klemens to approve the modification to approved pass supervisors.

After discussion, Michael Klemens amended his motion to approve a modification to approved pass supervisors for Peter Sherman, based on the evidence presented by the Arizona State Hospital's treatment team, that Mr. Sherman is in stable remission and not dangerous. The amended motion was seconded by Paul O'Connell and passed 3 – 0.

Robert Earl Bible, III – PSRB No. 13-07

Robert Bible was present with his attorney, Andrew Blischak, who appeared on behalf of assigned attorney, John W. Blischak. The statutory hearing was held from 2:04 p.m. to 2:06 p.m. pursuant to A.R.S. § 13-3994(H). ASH recommended a modification to approved pass supervisors.

It was clarified that Mr. Bible remains in stable remission and is not dangerous.

After discussion, a motion was made by Michael Klemens to approve the recommended modification to the list of approved pass supervisors based on the evidence presented by the Arizona State Hospital's treatment team that Mr. Bible remains in stable remission and not dangerous.

Vicky Dulcine Gee– PSRB No. 08-10

Vicky Gee was present with her attorney, Tammy Wray. The statutory hearing was held from 2:07 p.m. to 2:30 p.m. pursuant to A.R.S. § 13-3994(H). ASH recommended a modification to approved pass supervisors.

Ms. Cohen stated that ASH had nothing to add. Juli Warzynski said that the State has significant concerns for how the list of pass supervisors was created. She said that Ms. Gee's sons are not appropriate to be pass supervisors and that the victims would speak more to that in their upcoming testimony. Ms. Warzynski expressed concern that Ms. Gee's former daughter-in-law, Tori Lee, is listed on the proposed conditional release treatment plan as a pass supervisor, has no knowledge of being listed as such, and has had no contact with Ms. Gee for several years.

Dr. Schneider said it was her understanding that Tori Lee would be present during the off-grounds passes so she was added to the list. She added that Ms. Gee's sons have been participative in her recovery on a consistent basis.

Danette Cox, surviving victim, was sworn in and testified that she spoke with Tori Lee prior to today's hearing and Tori Lee stated to her that she has not been involved in Ms. Gee's care since the time of the index crime and was unaware that she was listed as a proposed pass supervisor.

Emmanuel Lee, Sr., surviving victim, was sworn in and testified that he was married to Ms. Gee for fourteen years and described the obstacles he faced in obtaining Ms. Gee mental health services during that period of time. Mr. Lee shared his concern that his son was listed as a proposed pass supervisor because his son suffers from a serious medical issue and is frequently hospitalized. Mr. Lee shared that he wants Ms. Gee to get the help she needs, but is concerned she will hurt another member of his family. Mr. Lee urged the Board to keep Ms. Gee in confinement.

Ms. Wray argued that Ms. Gee's sons have participated in staffings by phone and argument ensued between Ms. Wray and Mr. Lee regarding the appropriateness of Ms. Gee's sons as pass supervisors.

Dr. Clark proposed that the Board continue the issue so the Board can talk to the sons, and asked if ASH would provide more input regarding the proposed pass supervisors. Ms. Cohen and Ms. Wray did not object. Extensive discussion ensued.

ASH staff stated that Ms. Gee continues to be in stable remission and not dangerous.

A motion was made by Michael Klemens to modify Vicky Gee's conditional release treatment plan to approve Wendy Rogers as a pass supervisor, based on the evidence presented that Ms. Gee remains in stable remission and is not dangerous.

After discussion, Michael Klemens amended his motion to include the removal of the current pass supervisors. The amended motion was seconded by Paul O'Connell and passed 3 – 0.

Ms. Cohen stated that ASH will submit something in writing to the Board for the August hearing. Ms. Warzynski requested that the written submission include a description of how ASH came to list Tori Lee as a pass supervisor, and cited the specific language in the proposed conditional release treatment plan indicating that all persons identified have

participated in Ms. Gee's treatment and have been educated on pass requirements, clinical information and crisis planning.

A motion was made by James Clark, seconded by Paul O'Connell, and passed 3 – 0 to continue the matter of the proposed pass supervisors not approved today to August.

Paula Kristine Hughes-Riccio – PSRB No. 11-04

Paula Hughes-Riccio was present with her attorney, Tammy Wray. The statutory hearing was held from 2:31 p.m. to 2:36 p.m. pursuant to A.R.S. § 13-3994(H). Ms. Hughes-Riccio requested permission to travel out-of-state.

Ms. Wray stated that Ms. Hughes-Riccio is requesting permission to travel out-of-state for a period of five to ten days in September, and once the specific travel plans are made, the Board will be notified. Stevie Willis from La Frontera was sworn in and stated that the outpatient treatment team is in support of the request, the team will have once-daily phone contact with Ms. Hughes-Riccio during travel, and he verified that the clinic will be able to provide Ms. Hughes-Riccio with enough medication for the duration of her trip.

A motion was made by James Clark, seconded by Michael Klemens, and passed 3 – 0 to approve Paula Hughes-Riccio for out-of-state travel for five to ten days in September of 2018; that the dates of travel be provided to the PSRB prior to travel; that Ms. Hughes-Riccio submit to a urine drug screen within 24 hours of her return to Arizona; that Ms. Hughes-Riccio has daily phone contact with a member of the outpatient treatment team; and that the clinic provide Ms. Hughes-Riccio with enough medications for the duration of the trip.

Amado Salas – PSRB No. 11-04

Amado Salas was present with his attorney, Tammy Wray. The statutory hearing was held from 2:37 p.m. to 2:51 p.m. pursuant to A.R.S. § 13-3994(H). PSRB considered a change in residential monitoring requirements.

Dr. Clark explained that the residential placement where Mr. Salas was to be discharged to could not comply with the requirement that the residential staff know of Mr. Salas's whereabouts at all times. Mr. Salas is asking that the Board either strike that provision his conditional release order or allow him to live independently with his family.

Ms. Cohen stated that the ASH does not object to the removal of the provision. Ms. Wray, Board members, Cole Arigoni, and Mr. Raine held a general discussion about the provision.

After discussion, a motion was made by James Clark, seconded by Paul O'Connell, and passed 3 – 0 to strike item III. A, on page 4, line 17: "The residential staff shall know Mr. Salas's whereabouts at all times."

A general discussion was held about the staffing at sixteen hour residential placements.

Tahum Lekeith Garland – PSRB No. 02-04

Tahum Garland was present with his attorney, Tammy Wray. The statutory hearing was held from 2:52 p.m. to 3:13 p.m. pursuant to A.R.S. § 13-3994(H). Mr. Garland's outpatient treatment team recommended a modification to medication monitoring and Mr. Garland requested permission to travel out-of-state.

Audrey Reinholz was sworn in and testified about the impact of the crime on her family. Ms. Reinholz believes that Mr. Garland has no right to be out of confinement because he still poses a danger to the public.

Ms. Wray stated that Mr. Garland is doing well and pointed out that he was medication independent beginning in 2012. Ms. Reinholz reiterated her previous testimony and asked that the Board send Mr. Garland to prison.

Dr. Klemens stated that the request asks for both independent medications and three days per week medication observations, and requested clarification from the outpatient treatment team. Mr. Willis stated that the team is requesting independent medications first, and in the alternative, three days per week. Dr. Klemens pointed out that a psychiatrist's note from the end of June stated that medication observations could be scaled back in three to six months, which contradicts the recommendation. Dr. Klemens also pointed out that the outpatient treatment team did not start observing his medications until June 21, 2018, which leaves a period of time where Mr. Garland's medications were taken unobserved. Ms. Wray clarified that this was during a transitional time in residences and meds were observed by people in Mr. Garland's home. Dr. Klemens said he was concerned about the opposing information and discussion ensued.

Dr. Clark expressed his continuing concern about the ease of which the twelve steps meeting attendance requirement was discontinued by Mr. Garland and that he still finds value in close medication monitoring during Mr. Garland's transition to living independently with family.

A motion was made by James Clark, seconded by Paul O'Connell, and passed 3 – 0 to grant the request for Mr. Garland to travel out-of-state, based on the evidence that Mr. Garland

remains in stable remission and not dangerous, if he continues to comply with the conditional release treatment plan.

A motion was made by James Clark for no change to the frequency of medication observations and that the ACT Team continues to monitor each dose of medication.

Ms. Wray asked for clarification since there was an alternative request in the letter. Discussion ensued. Dr. Clark said he believes that it's too early to outsource medication observations and reiterated his motion for no change for medications, but added that Mr. Garland's mother observe medications during travel. Discussion ensued.

James Clark amended his previous motion regarding travel to grant the request that Mr. Garland travel to Los Angeles for a family wedding, from August 17th to August 20th, and that Mr. Garland's mother monitor medications during that time.

After discussion, Dr. Clark amended his motion regarding travel to include that Mr. Garland's mother document the medication observations. The amendments were seconded by Paul O'Connell and it passed 3 – 0.

After discussion, a motion was made by James Clark, seconded by Paul O'Connell, and passed 3 – 0 to deny the request to amend the conditional release treatment plan regarding medication observation.

Walter Gray McCarthy – PSRB No. 08-10

Walter McCarthy was present with his attorney, Tammy Wray. The statutory hearing was held from 3:14 p.m. to 3:33 p.m. pursuant to A.R.S. § 13-3994(H). ASH recommended conditional release to ASH, phase two, levels three and four.

Ms. Cohen stated that ASH had nothing to add. Ms. Warzynski argued that the State contends that Mr. McCarthy has continued to manipulate the system because he only began to carry a mental health diagnosis when discussions began regarding Mr. McCarthy being transferred to the Arizona Department of Corrections, and has utilized minimal medications thereafter. The State believes that Mr. McCarthy should not advance in privilege levels because he has issues with substance abuse, his temper, and that the proposed pass supervisors have not participated in his treatment.

Ms. Wray argued that Mr. McCarthy was given an Axis I diagnosis in March of 2010 by the State's expert. Mr. McCarthy has been evaluated to be in stable remission and a low risk for

danger since December 2012; he exceeds his treatment goals, has not violated any hospital rules, and has consistent support from his sister.

Dr. Clark pointed out that a risk assessment states that it does not appear that the pass supervisors have participated in Mr. McCarthy's treatment plan reviews, and asked ASH staff how they were proposed as such. James Holmes stated that the proposed pass supervisors were educated on typical guidelines and expectations, and going forward, they will need to be a major part of Mr. McCarthy's treatment, especially if they are taking him on passes. Dr. Clark asked if they should first be more involved and then re-present the issue to the Board at a point where the team is sure they are involved and more engaged in his treatment. Dr. Holmes replied that this is what the Board wishes to do ASH can fulfill that, but for now this is satisfactory.

Discussion was held about some language in the proposed conditional release plan. Diane Wagner stated that when the social worker educates the proposed pass supervisors, they go over the proposed conditional release plan and the inpatient treatment plan.

A motion was made by James Clark, seconded by Michael Klemens, and failed 2 – 1 to approve Walter McCarthy for phase two, levels three and four, with a modification to require a minimum of six passes and 90 days must elapse before advancement to level four; and modify to require a minimum of ten 48-hour passes and 180 days must elapse; and adopt the conditional release treatment plan, as amended, based on the evidence presented by the Arizona State Hospital's treatment team, that Mr. McCarthy'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 amended today.

Paul O'Connell opposed the motion citing concern for public safety and that the increase in privileges is moving rather quickly.

A motion was made by Michael Klemens, seconded by James Clark, and passed 3 – 0 to approve Walter McCarthy for conditional release to Arizona State Hospital, phase two, level three, and adopt the conditional release treatment plan with the amendments that Mr. McCarthy complete ten passes and 180 days must elapse prior to consideration of advancement to level four, based on the evidence presented by the Arizona State Hospital's treatment team that Mr. McCarthy'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 amended today.

Discussion, Amendment and Approval of Minutes:

Open session minutes from the June 22, 2018, meeting:

After discussion, a motion was made by James Clark, seconded by Paul O'Connell, and passed 3 – 0 to approve the open session minutes, as amended.

Executive session minutes from the June 22, 2018, meeting:

A motion was made by James Clark, seconded by Paul O'Connell, and passed 3 – 0 to recess into executive session at 3:38 p.m. to discuss confidential information and to obtain legal advice pursuant to A.R.S. § 38-431.03(A)(2) and (3).

After discussion in executive session, the Board reconvened in open session at 3:46 p.m.

In open session, a motion was made by James Clark, seconded by Paul O'Connell, and passed 3 – 0 to approve the executive session minutes, as amended.

Identification of Future Agenda Items:

- The Board members added the provision of residential placements knowing the whereabouts of GEI persons at all times.

Adjournment:

The Board meeting was adjourned at 3:48 p.m.