

Law Project for Psychiatric Rights
406 G Street, Suite 206
Anchorage, AK 99501
907-274-7686 phone
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COPY
Original Received
Probate Division

MAR 11 2008

Clerk of the Trial Courts

Attorney for Respondent

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT, AT ANCHORAGE

In The Matter of the Necessity for the)
Hospitalization of William S. Bigley,)
)
)
Respondent)

Case No. 3AN 08-00247PR

**MEMORANDUM IN SUPPORT OF MOTION FOR A TEMPORARY
RESTRAINING ORDER and PRELIMINARY INJUNCTION**

Pursuant to Civil Rule 65, William S. Bigley, the Respondent in this matter, by and through his counsel the Law Project for Psychiatric Rights, has moved for a temporary restraining order and preliminary injunction prohibiting the Alaska Psychiatric Institute (API) from administering any psychotropic drugs to Mr. Bigley without further order of the court.

I. Factual Background

When the undersigned counsel arrived at his office on March 11, 2008, there was a voicemail message from Mr. Bigley that he had been forcibly injected with a psychotropic drug. Counsel contacted both the Public Defender Agency and the Attorney General's Office.¹ The e-mails to the Public Defender had delivery trouble so they were faxed as

¹ Exhibit A.

well.² These were directed to the three Assistant Public Defenders who have appeared in this case as well as Quinlan Steiner, the head of the agency.

In addition, I called and left a message for Elizabeth Brennan of the Public Defender Agency and Timothy Twomey, Assistant Attorney General, and spoke with Stacie Kraly, the Chief Assistant Attorney General, Human Services Section. There has been an exchange of e-mails with Mr. Twomey.³ Around 3:15 pm, the undersigned had a telephone conversation with Mr. Twomey in which he confirmed that Mr. Bigley had been given Haldol, a neuroleptic as well as Lorazapem. Mr. Bigley says the doctor told him he was given Haldol and Ativan. Mr. Twomey asserted the forced drugging occurred in compliance with AS 47.30.838.⁴ Mr. Twomey said he was not in a position to give any assurance Mr. Bigley would not be forcibly drugged tonight.

As of 3:45 pm, March 11, 2008, the undersigned had not heard back from anyone at the Public Defender Agency, in spite of four attorneys there, including the head of the agency, Quinlan Steiner, having been e-mailed and faxed that the undersigned would provide the Public Defender Agency the motion that the undersigned prepared should it desire to do so.⁵

API has a history of flouting the legal restrictions on its forced drugging of Mr. Bigley. In September of 2007, when it could not obtain an immediate forced drugging order under AS 47.30.839, it forcibly drugged him anyway. This resulted in motions for

² Exhibit A.

³ Exhibit A, pp 6-7.

⁴ Exhibit F.

⁵ Exhibit A, p 2. *See also* Exhibit E.

emergency injunctive relief to both the Superior Court and the Alaska Supreme Court.⁶

API responded that it wouldn't do it any more.⁷ More specifically, API stated:

There is no need for such an injunction because, in compliance with AS 47.30.838(c), the order for emergency medication has been cancelled. . . .

Until there is a final decision on the Petition for the Administration of Psychotropic Medication, Mr. Bigley will not receive any emergency medication.⁸

API has now done it again and emergency injunctive relief in the form of a temporary restraining order is warranted until.

II. Argument

As set forth more fully in Mr. Bigley's Submission for Representation Hearing and supporting documents, the Alaska Supreme Court has acknowledged that forced psychiatric drugging is as intrusive as lobotomy and electroshock and can only be allowed with full compliance with the law and Constitution.⁹ Each forced drugging is a physical and mental assault on the patient.¹⁰ The following will give the Court an idea of what it feels like to be given this class of drugs:

These drugs, in this family, do not calm or sedate the nerves. They attack. They attack from so deep inside you, you cannot locate the source of the pain. . . .

⁶ Exhibit B. The Emergency Motion to the Alaska Supreme Court refers to Dr. Worrall as having ordered the forced drugging, but Dr. Worrall, Mr. Bigley's treating psychiatrist at the time, asserted later that the forced drugging had not been done on his order, but the admitting psychiatrist some days earlier. This appears to be technically correct.

⁷ Exhibit C.

⁸ *Id.*

⁹ *Myers* 138 P3d 238, 242 (Alaska 2006); *Wetherhorn*, 156 P.3d 371, 382 (Alaska 2007).

¹⁰ *See, e.g.,* Exhibit D, which is a transcript of Mr. Bigley's voice mail.

The muscles of your jawbone go berserk, so that you bite the inside of your mouth and your jaw locks and the pain throbs. For hours every day this will occur. Your spinal column stiffens so that you can hardly move your head or your neck and sometimes your back bends like a bow and you cannot stand up.

The pain grinds into your fiber You ache with restlessness, so you feel you have to walk, to pace. And then as soon as you start pacing, the opposite occurs to you: you must sit and rest. Back and forth, up and down you go in pain you cannot locate; in such wretched anxiety you are overwhelmed, because you cannot get relief even in breathing.¹¹

Mr. Bigley has been subjected to so much forced drugging that he probably doesn't experience this level of effect, but it is bad enough.

The harm from every improper forced drugging is irreparable. In this situation, there is no need for a bond, and none should be required.

The Temporary Restraining Order requested herein is being requested after notice to API so the provisions of Civil Rule 65(b) pertaining to the granting of Temporary Restraining Orders without notice are inapplicable.

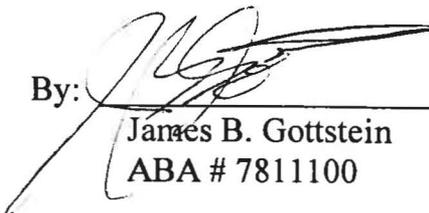
Since API asserts that it has complied with AS 47.30.838,¹² Mr. Bigley requests that the Temporary Restraining Order be granted until such time as an evidentiary hearing can be held for a preliminary injunction. Mr. Bigley does not object to such a hearing occurring very soon, but that it should be set for a time after the undersigned has been given a copy of Mr. Bigley's records at API and has time to subpoena witnesses to compel attendance at such a hearing.

¹¹ JACK HENRY ABBOT, IN THE BELLY OF THE BEAST: LETTERS FROM PRISON, 35-36 (Vintage Books 1991) (emphasis omitted).

¹² Exhibit F.

DATED: March 11, 2008.

Law Project for Psychiatric Rights

By: 

James B. Gottstein

ABA # 7811100

LAW PROJECT FOR PSYCHIATRIC RIGHTS, INC.
406 G Street, Suite 206
Anchorage, Alaska 99501
(907) 274-7686 Phone ~ (907) 274-9493 Fax

Memorandum in Support of Temporary Restraining Order
and Preliminary Injunction

PsychRight®
Law Project for
Psychiatric Rights
406 G Street, Suite 206
Anchorage, Alaska 99501

F a c s i m i l e

TO: Public Defender Agency
(Distribution List Below)
868-2588

FROM: Lisa E. Smith for Jim Gottstein
(907) 274-7686
(907) 274-9493 (Fax)

DATE: 3/11/08

RE: URGENT

Discuss with me For your Information
 For your Comments Hard copy will follow by mail

TO:

Linda Beecher
Elizabeth Brennan
Kelly Gillilan-Gibson
Quinlan Steiner

URGENT! Please deliver to all four. The emails sent this morning have bounced.

Thank you.

Number of pages (including this cover sheet):

4

THIS FACSIMILE CONTAINS CONFIDENTIAL, PRIVILEGED INFORMATION INTENDED ONLY FOR THE INDIVIDUAL OR ENTITY TO WHOM IT IS ADDRESSED. DO NOT READ, COPY OR DISSEMINATE THIS INFORMATION UNLESS YOU ARE THE ADDRESSEE (OR THE PERSON RESPONSIBLE FOR DELIVERING IT). IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE CALL US (COLLECT) IMMEDIATELY AT (907) 274-7686, AND RETURN THE ORIGINAL MESSAGE TO THE LAW OFFICES OF JAMES B. GOTTSTEIN, 406 G STREET, SUITE 206, ANCHORAGE, ALASKA 99501 VIA THE POSTAL SERVICE. THANK YOU.

To: "elizabeth brennan-admin.state.ak.us" <elizabeth_brennan@admin.state.ak.us>,
From: Jim Gottstein <jim.gottstein@psychrights.org>
Subject: Mr. B Was Forcibly Injected
Cc: kelly_gillilan-gibson@admin.state.ak.us, linda.beecher@alaska.gov,
quinlan.steiner@alaska.gov
Bcc:
Attached:

Hi Elizabeth,

There was a message in my voice mail from Mr. Bigley that he had been forcibly drugged with an injection. The only way this is not a criminal assault on our client, Mr. Bigley, in my view, is if it was properly determined to be an emergency under AS 47.30.838 and the proper procedures were followed. I suspect API and I disagree on what that means, but I would be surprised if the circumstances even came close to meeting the standards and complying with the procedures.

I also note that, with respect to Friday's hearing, under AS 47.30.725(e) :

(e) The respondent has the right to be free of the effects of medication and other forms of treatment to the maximum extent possible before the 30-day commitment hearing; however, the facility or evaluation personnel may treat the respondent with medication under prescription by a licensed physician or by a less restrictive alternative of the respondent's preference if, in the opinion of a licensed physician in the case of medication, or of a mental health professional in the case of alternative treatment, the treatment is necessary to

- (1) prevent bodily harm to the respondent or others;
- (2) prevent such deterioration of the respondent's mental condition that subsequent treatment might not enable the respondent to recover; or
- (3) allow the respondent to prepare for and participate in the proceedings.

I do not believe any of these conditions existed. His voice mail said he was angry and doors were slammed.

I think a motion for expedited consideration for an order to show cause requiring API to justify why it was entitled to administer the drug should be filed. When this came up in September, I ended up filing an emergency Original Application for Relief to the Alaska Supreme Court and API represented to the Court it wouldn't do it any more.

I don't think yesterday's decision by Judge Smith contemplated this situation. I plan to put together a motion package and will send it to you as soon as I get it done. I really think I should file and prosecute it, but in light of yesterday's hearing, if the PDA wants to do it, then I will expect it to do so zealously.

To: "elizabeth brennan-admin.state.ak.us" <elizabeth_brennan@admin.state.ak.us>,
From: Jim Gottstein <jim.gottstein@psychrights.org>
Subject: tro
Cc: kelly_gillilan-gibson@admin.state.ak.us, linda.beecher@alaska.gov,
quinlan.steiner@alaska.gov
Bcc:
Attached:

Hi Elizabeth,

In starting to work on the motion package, it seems to me it should be for a temporary restraining order and that is the direction I am going.

To: stacie.kraly@alaska.gov, tim.twomey@alaska.gov
From: Jim Gottstein <jim.gottstein@psychrights.org>
Subject: Illegal Forced Drugging of Mr. Bigley?
Cc: elizabeth_brennan@admin.state.ak.us, kelly_gillilan-gibson@admin.state.ak.us, quinlan.steiner@alaska.gov, linda.beecher@alaska.gov, jim.gottstein@psychrights.org
Bcc:
Attached:

Hi Stacie and Tim,

There was a voice mail from Mr. Bigley when I came in this morning that he was forcibly injected with a psychotropic medication last night around 9:00 pm pursuant to a "prn" (as needed) order. Unless you can immediately demonstrate to me that AS 47.30.838 was followed, or there is some other legal justification, I expect a motion for a TRO/Preliminary Injunction or some other emergency relief will be filed this afternoon. I don't know at this point if the motion will be filed by PsychRights or the Public Defender Agency.

In any event, I hereby demand that you immediately fax or deliver to me a legible copy of all documents pertaining this forced drugging, including compliance with AS 47.30.838.

Of course, if API denies the forced drugging occurred, you should let me know immediately.

You can expect this e-mail to be an attachment to the motion package.

Destination	Start Time	Time	Prints	Result	Note
98682588	03-11 11:02	00:00:33	004/004	OK	L1

Note L1: Main Circuit, L2: Sub Circuit, TMR: Timer, POL: Poll, ORG: Original, FME: Frame Erase TX, MIX: Mixed Original, CALL: Manual Communication, CSRC: CSRC, FWD: Forward, PC: PC-FAX, BND: Bind, SP: Special Original, FCODE: F-Code, RTX: Re-Tx, RLY: Relay, MBX: Confidential, BUL: Bulletin, SIP: SIP-Fax, IPADR: IP Address Fax, I-FAX: Internet Fax

Result OK: Communication OK, S-OK: Stop Communication, PW-OFF: Power Switch OFF, TEL: RX from TEL, NG: Other Error, Cont: Continue, No Ans: No Answer, Refuse: Receipt Refused, Busy: Busy, M-Full: Memory Full, LOVR: Receiving length Over, POVER: Receiving page Over, FIL: File Error, DC: Decode Error, MDN: MDN Response Error, DSN: DSN Response Error.

PsychRight®
 Law Project for
 Psychiatric Rights
 406 G Street, Suite 206
 Anchorage, Alaska 99501

F a c s i m i l e

TO: Public Defender Agency
 (Distribution List Below)
 868-2588

FROM: Lisa E. Smith for Jim Gottstein
 (907) 274-7686
 (907) 274-9493 (Fax)

DATE: 3/11/08

RE: URGENT

-
- Discuss with me
 - For your Information
 - For your Comments
 - Hard copy will follow by mail
-

TO:
 Linda Beecher
 Elizabeth Brennan
 Kelly Gillilan-Gibson
 Quinlan Steiner

URGENT! Please deliver to all four. The emails sent this morning have bounced.

Thank you.

Number of pages (including this cover sheet):

4

Date: Tue, 11 Mar 2008 14:10:58 -0800
From: "Twomey, Timothy M (LAW)" <tim.twomey@alaska.gov>
Subject: RE: Illegal Forced Drugging of Mr. Bigley?
To: Jim Gottstein <jim.gottstein@psychrights.org>
Cc: "Brennan, Elizabeth (DOA)" <elizabeth.brennan@alaska.gov>,
"Steiner, Quinlan G (DOA)" <quinlan.steiner@alaska.gov>,
"Beecher, Linda R (DOA)" <linda.beecher@alaska.gov>,
"Gillilan-Gibson, Kelly (DOA)" <kelly.gillilan-gibson@alaska.gov>
Thread-topic: Illegal Forced Drugging of Mr. Bigley?
Thread-index: AciDxEj8AerBNRN2Tv2iQ0iypACdXwAABxHQ
X-MS-Has-Attach: yes
X-MS-TNEF-Correlator:
X-OriginalArrivalTime: 11 Mar 2008 22:10:58.0959 (UTC)
FILETIME=[C90759F0:01C883C4]

Good afternoon Jim: I'd hate to see you waste your effort if the facts conveyed to you by Mr. Bigley are not reality. I am awaiting information as to what may have transpired and will advise you as soon as I am able.

Thanks, Tim

Tim Twomey (907) 269-5168 direct

From: Jim Gottstein [mailto:jim.gottstein@psychrights.org]
Sent: Tuesday, March 11, 2008 2:04 PM
To: Twomey, Timothy M (LAW)
Cc: Brennan, Elizabeth (DOA); Steiner, Quinlan G (DOA); Beecher, Linda R (DOA); Gillilan-Gibson, Kelly (DOA)
Subject: RE: Illegal Forced Drugging of Mr. Bigley?

Hi Tim,

If we are to avoid a proceeding over this, I think we need a stipulation that no more "emergency" drugging will occur unless authorized by a court order pursuant to AS 47.30.839. API told the Supreme Court and Superior Court it wouldn't further forcibly drug Mr. Bigley on an "emergency" in 3AN 07-1064PR, without such an order. See, eg the (hopefully) attached filing to the Supreme Court.

I like to think I am pretty close (an hour or so) to having my TRO/Preliminary Injunction package finished. I need to know no more druggings will occur in order not to file it as soon as I can in order to try and get the TRO before the end of the day.

At 01:45 PM 3/11/2008, you wrote:

Hello Jim: Just returned to my office and have just now read this and listened to your voicemail. I will inquire to see what the facts are and will let you know.

Thanks, Tim

Tim Twomey (907) 269-5168 direct

From: Jim Gottstein [mailto:jim.gottstein@psychrights.org]

Exhibit A p 6 of 7

Sent: Tuesday, March 11, 2008 11:00 AM
To: Kraly, Stacie L (LAW); Twomey, Timothy M (LAW)
Cc: Brennan, Elizabeth (DOA); Gillilan-Gibson, Kelly (DOA); Steiner, Quinlan G (DOA); Beecher, Linda R (DOA); jim.gottstein@psychrights.org
Subject: Illegal Forced Drugging of Mr. Bigley?
Importance: High

Hi Stacie and Tim,

There was a voice mail from Mr. Bigley when I came in this morning that he was forcibly injected with a psychotropic medication last night around 9:00 pm pursuant to a "prn" (as needed) order. Unless you can immediately demonstrate to me that AS 47.30.838 was followed, or there is some other legal justification, I expect a motion for a TRO/Preliminary Injunction or some other emergency relief will be filed this afternoon. I don't know at this point if the motion will be filed by PsychRights or the Public Defender Agency.

In any event, I hereby demand that you immediately fax or deliver to me a legible copy of all documents pertaining this forced drugging, including compliance with AS 47.30.838.

Of course, if API denies the forced drugging occurred, you should let me know immediately.

You can expect this e-mail to be an attachment to the motion package.

James B. (Jim) Gottstein, Esq.
President/CEO

Law Project for Psychiatric Rights
406 G Street, Suite 206
Anchorage, Alaska 99501
USA
Phone: (907) 274-7686 Fax: (907) 274-9493
jim.gottstein[at]psychrights.org
<http://psychrights.org/>

Psych Rights ®
Law Project for
Psychiatric Rights

The Law Project for Psychiatric Rights is a public interest law firm devoted to the defense of people facing the horrors of forced psychiatric drugging. We are further dedicated to exposing the truth about these drugs and the courts being misled into ordering people to be drugged and subjected to other brain and body damaging interventions against their will. Extensive information about this is available on our web site, <http://psychrights.org/>. Please donate generously. Our work is fueled with your IRS 501(c) tax deductible donations. Thank you for your ongoing help and support.



[Twomey, Timothy M \(LAW\)1.vcf](#)

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT, AT ANCHORAGE

In The Matter of the Necessity for the)
Hospitalization of William S. Bigley,)
Respondent,)
William Worrall, MD,)
Petitioner)

COPY
Original Received
Probate Division

SEP 10 2007

Clerk of the Trial Courts

Case No. 3AN 07-1064 P/S

MEMORANDUM IN SUPPORT OF MOTION FOR INJUNCTIVE RELIEF

Respondent has moved for the issuance of an injunction against William A. Worrall, MD and the Alaska Psychiatric Institute from administering any psychotropic medication to Respondent William S. Bigley on any grounds except as follows:

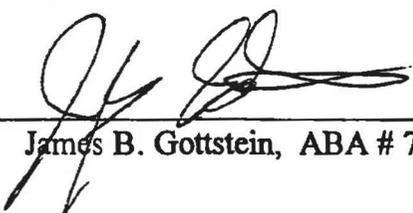
1. The enjoined parties may seek to administer psychotropic medication only through court approval.
2. In the event the Superior Court grants such approval, such authority shall be stayed for seven days for Mr. Bigley to seek review by the Alaska Supreme Court.
3. If such review is sought, Mr. Bigley may seek a further stay in this court, and the stay granted in 2, above, shall remain in effect until the this court has ruled on his request and, if not granted, Mr. Bigley has had seven days from denial to seek further review in the Alaska Supreme Court.

The grounds for this motion is that Dr. Worrall, without restraint by API, is flouting the requirements of AS 47.30.838 as set forth in the Application for Original Relief and Emergency Motion for Injunctive Relief filed in the Alaska Supreme Court, copies of which have also been filed herein.

DATED September 10, 2007

Law Project for Psychiatric Rights, Inc.

By: _____



James B. Gottstein, ABA # 7811100

LAW PROJECT FOR PSYCHIATRIC RIGHTS, INC.
406 G Street, Suite 206
Anchorage, Alaska 99501
(907) 274-7686 Phone ~ (907) 274-9493 Fax

I. Counsel Contact Information

Mr. Bigley is represented by James B. Gottstein, whose address is 406 G Street, Suite 206, Anchorage, Alaska, 99501, and telephone number is 274-7686. Dr. Worrall and API are represented by Elizabeth Russo, whose address is 1031 West 4th Ave., Suite 200, Anchorage, Alaska 99501, her direct telephone number is 269-5144 and main office number is 269-5140.

II. Statement of Facts (and Analysis) in Support of Motion

Mr. Bigley is being illegally and, on pretexts, subjected to forced psychiatric drugging purportedly under the police power justification of AS 47.30.838, mentioned in *Myers v. Alaska Psychiatric Institute*, 138 P.3d. 238, 242 (Alaska 2006). There is not only no factual justification in Mr. Bigley's medical record as required by AS 47.30.838(a)(1), it is not justified in fact², and Mr. Bigley has been forcibly drugged more than allowed under AS 47.30.838(a)(2)(C) & (c). In sum, (1) API employs a psychiatrist, Respondent William A. Worrall, Mr. Bigley's treating psychiatrist, who believes he is able to forcibly drug any of his patients in any way he decides in flagrant disregard of the patients' rights with impunity, and (2) Respondent Alaska Psychiatric Institute (API) has allowed this flagrant violation of Mr. Bigley's rights, by its employee, Dr. Worrall.

2006), and *Wetherhorn v. Alaska Psychiatric Institute*, 156 P.3d 371, 382 (Alaska 2007) that these drugs have been equated with the intrusiveness of Electroshock and Lobotomy.
² The psychiatrist testified that while Respondent makes severe threats he is never actually violent and that as a professional he isn't concerned with them; the Probate Master also made specific factual recommendations regarding this. A39, 40,

Mr. Bigley is here requesting an injunction be issued against Dr. Worrall and API from any more forced psychiatric druggings without court approval, including a meaningful opportunity to seek review.

A. Proceedings

Mr. Bigley has been repeatedly involuntarily committed and drugged against his will for 27 years in over 70 admissions to API.³ API's approach is to haul him in, drug him up, then discharge him knowing he will quit the drugs until hauled in again and forced to endure them again.⁴

The Law Project for Psychiatric Rights (PsychRights®) first began representing Mr. Bigley on December 6, 2007, in his guardianship case, 3AN 04-545P/G, filing a petition to terminate the guardianship and, in the alternative, for other relief, including eliminating the guardian's authority to consent to forced drugging.⁵ At that time Mr. Bigley was subject to 90-Day commitment and forced drugging orders in 3AN 06-01039 P/S, which were due to expire in early January. PsychRights entered its appearance before then⁶ filed an election to have a jury trial if API filed for a 180 day petition,⁷ and instead of doing that, API didn't file such a petition. On January 12, 2007, this Court

³ See, Appendix, pp 19-29 for a fuller recitation of facts. Hereinafter, pages to the Appendix shall be referred to as "A__." An Original Application for Relief has been filed contemporaneously herewith and the same Appendix is being used to prevent unnecessary proliferation of paper.

⁴ A20-22.

⁵ Judicial Notice may be taken of these and the other proceedings cited below.

⁶ Through Steven J. Priddle, while Mr. Gottstein was out of town.

⁷ There is no *statutory* right to a jury trial for 30 day commitments, but there is for 90 and 180-day commitments under AS 47.30.770(b) and AS 47.30.745(c), respectively.

issued the *Wetherhorn* decision, holding "AS 47.30.915(7)(B) is constitutional if construed to require a level of incapacity so substantial that the respondent is incapable of surviving safely in freedom."⁸

Since then, in Case Nos. 3AN 07-247 P/R and 3AN-07-598 PR, API has successfully petitioned for 30 day commitments and forced drugging orders,⁹ but lost both jury trials.¹⁰ In the first jury trial, Mr. Bigley was represented by counsel here and in the second one, counsel testified on behalf of Mr. Bigley as a fact witness.

That brings us to the current proceeding. Due to Mr. Bigley losing his housing and then getting evicted from the Brother Francis Shelter, Mr. Bigley deteriorated and a number of people became concerned for his safety. On August 28, 2007, an *ex parte* petition was jointly signed by Wendy Shackelford of the Anchorage Police Department and Paul Cornils,¹¹ which was granted.¹² Petitions for Involuntary Commitment and Forced Drugging were filed August 30, 2007, by API and hearings on both petitions were scheduled for the next day.¹³ PsychRights filed a limited entry of appearance to represent Mr. Bigley solely as to the Forced Drugging Proceeding.¹⁴

⁸ Upon re-hearing, slight modifications to this opinion not relevant here were issued on April 13, 2007.

⁹ PsychRights has not represented Mr. Bigley in any of the 30-day proceedings until this one, but did file an appeal on his behalf on the first one, which is in the briefing stage.

¹⁰ Judicial Notice.

¹¹ Mr. Cornils is a case manager for CHOICES, Inc., which they call "Recovery Coordinators."

¹² A103.

¹³ A103-109.

¹⁴ A110.

At the Friday, August 31, 2007, hearing, as relevant here, over the objection of API, Mr. Bigley obtained a short continuance until Wednesday, September 5, 2007.¹⁵ In spite of Dr. Worrall's testimony that Mr. Bigley never acts on the threats he makes,¹⁶ API said it needed to be able to drug him during the continuance because he was disruptive to other patients and threatening to staff.¹⁷ In response, the Probate Master pointed out that in an emergency, API could follow the procedures set forth in AS 47.30.838,¹⁸ which was also discussed in *Myers*.¹⁹

However, Dr. Worrall has been ordering forcible injections of Mr. Bigley ever since without any justification under AS 47.30.838 in his medical records and the total amount of time allowed for forced drugging under AS 47.30.838 without a forced drugging order in AS 47.30.839 being in place has been exhausted. Dr. Worrall and API are flouting the law and this Court's decisions in *Myers* and *Wetherhorn* and Mr. Bigley is seeking to have it stopped immediately, and procedures put in place to give him a meaningful opportunity to object and seek review before it recommences.

B. AS 47.30.838 Requires Documentation Supporting the Emergency Drugging Be in the Patient's Medical Record and Should Be Immediately Available

AS 47.30.838 provides in pertinent part:

(a) Except as provided in (c) and (d) of this section, an evaluation facility or designated treatment facility may administer psychotropic

¹⁵ A43-7.

¹⁶ A38, 39.

¹⁷ A44.

¹⁸ A45.

¹⁹ 138 P.3d at 242.

medication to a patient without the patient's informed consent, regardless of whether the patient is capable of giving informed consent, only if

(1) there is a crisis situation, or an impending crisis situation, that requires immediate use of the medication to *preserve the life of, or prevent significant physical harm to, the patient or another person*, as determined by a licensed physician or a registered nurse; the behavior or condition of the patient giving rise to a crisis under this paragraph and the staff's response to the behavior or condition *must be documented in the patient's medical record*; the documentation must include an explanation of alternative responses to the crisis that were considered or attempted by the staff and why those responses were not sufficient;²⁰

Therefore, Dr. Worrall and API should be able to immediately produce this documentation. It does not exist because there never has been a sufficient emergency.

Moreover, AS 47.30.838(a)(2)(C) and (c) provide.

(C) [the physician's order] is valid for only 24 hours and may be renewed by a physician for a total of 72 hours, including the initial 24 hours, only after a personal assessment of the patient's status and a determination that there is still a crisis situation as described in (1) of this subsection; upon renewal of an order under this subparagraph, the facts supporting the renewal shall be written into the patient's medical record.

* * *

(c) If crisis situations as described in (a)(1) of this section occur repeatedly, or if it appears that they may occur repeatedly, the evaluation facility or designated treatment facility may administer psychotropic medication during no more than three crisis periods without the patient's informed consent only with court approval under AS 47.30.839.

Thus, it is now an impossibility for any future forced drugging orders to be valid under AS 47.30.838. In light of the blatant and routine violation of his rights by Dr.

²⁰ Emphasis added.

Worrall and API, Mr. Bigley is requesting the protection of the courts before any more forced drugging occur.

III. Great Irreparable Harm Will Result if Relief is Not Granted

The written testimony of Robert Whitaker sets forth the scientific evidence for the great irreparable physical and mental harm being done to people who are being given these drugs as well as the great diminishment of their quality of life.²¹ This includes that people are much more likely to recover if they are not put on these drugs,²² very harmful side effects, including increases in violence and suicidality,²³ and that the newer drugs are worse than the older ones.²⁴ The research literature thus shows the following:

- a) Antipsychotics increase the likelihood that a person will become chronically ill.
- b) Long-term recovery rates are much higher for unmedicated patients than for those who are maintained on antipsychotic drugs.
- c) Antipsychotics cause a host of debilitating physical, emotional and cognitive side effects, and lead to early death.
- d) The new "atypical" antipsychotics are not better than the old ones in terms of their safety and tolerability, and quality of life may even be worse on the new drugs than on the old ones.²⁵

In addition, all of the force and coercion is very harmful itself. Dr. Ron Bassman also submitted written testimony, including that "Adults with serious mental illness treated in public systems die about 25 years earlier than Americans overall, a gap that's

²¹ A116-129.

²² A119, 113.

²³ A123-125.

²⁴ A125-128.

²⁵ A128-9.

widened since the early 1990s when major mental disorders cut life spans by 10 to 15 years,"²⁶ which is when the new generation of drugs came to market.

Dr. Bassman's written testimony included that the drugs do not work for many people and/or have intolerable side effects. Many people refuse to take them and when that happens there are other viable options.²⁷ Dr. Bassman's testimony included that even people who have been very mentally ill for a long time can recover if other choices are offered.²⁸ This was confirmed by the in-court testimony of Sarah Porter of New Zealand, who was qualified by the Probate Master as an expert on alternatives to the current standard of care.²⁹ She testified that coercion is very traumatic and countertherapeutic and that even people who have been in the system for a long time can do much better if one engages in a negotiation process, rather than one based on coercion and force.³⁰

IV. Grounds Submitted to Trial Court

Contemporaneously with the filing of this Motion, this relief was requested in the trial. This procedure was used because of the grievous and irreparable harm if relief is not immediately granted. Mr. Bigley is requesting relief from this Court if the trial court does not grant it by 4:00 Monday, September 10, 2007.

²⁶ A111.

²⁷ A111-115.

²⁸ A113.

²⁹ A97.

³⁰ A94.

V. Notification to Opposing Counsel

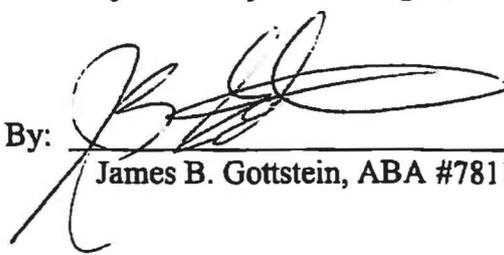
Opposing counsel was notified by e-mail on Sunday, September 09, 2007, where this application and supporting documents could be downloaded.³¹ Full sets of the documents will have been served as early as possible on Monday, September 10, 2007 prior to filing.

VI. Conclusion

For the foregoing reasons, unless the Court is informed the Superior Court has done so by 4:00 PM, Monday September 10, 2007, Mr. Bigley respectfully requests the Court to immediately issue an injunction against Dr. Worrall and API from any more forced psychiatric drugging of Mr. Bigley without court authorization and a meaningful opportunity to obtain review.³²

DATED: September 9, 2007.

Law Project for Psychiatric Rights

By: 

James B. Gottstein, ABA #7811100

³¹ <http://psychrights.org/States/Alaska/CaseSeven.htm>. This procedure was used because the Appendix is too large to e-mail.

³² Respondent uses the term "Forced Psychiatric Druggings," instead of the euphemistic "involuntary administration of psychotropic medications" to reinforce this Court's acknowledgment in *Myers v. Alaska Psychiatric Institute*, 138 P.3d 238, 242 (Alaska 2006), and *Wetherhorn v. Alaska Psychiatric Institute*, 156 P.3d 371, 382 (Alaska 2007)

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IN THE SUPREME COURT FOR THE STATE OF ALASKA

WILLIAM S. BIGLEY,)
)
Applicant,)
)
vs.)
)
THE ALASKA PSYCHIATRIC)
INSTITUTE,)
)
Respondent.)

Case No. S-12851

Trial Court Case No. 3AN-07-1064 PR¹

OPPOSITION TO ORIGINAL APPLICATION FOR INJUNCTIVE RELIEF

The State of Alaska, Department of Health and Social Services, Division of Behavioral Health, Alaska Psychiatric Institute, by and through the Office of the Attorney General, opposes the respondent's Motion for Injunctive Relief. There is no need for such an injunction because, in compliance with AS 47.30.838 (c), the order for emergency medication has been cancelled.

Alaska Statute 47.30.838 (c) states, "If the crisis situations as described in (a)(1) of this section occur repeatedly, or if it appears that they may occur repeatedly, the evaluation facility or designated treatment facility may administer psychotropic medication during no more than three crisis periods without the patient's informed consent only with court approval under AS 47.30.839."

As Mr. Bigley has had the statutory allowance of emergency medication, Dr. Worrall stopped the order this morning. See Attachment A. Until there is a final decision on the Petition for the Administration of Psychotropic Medication, Mr. Bigley

¹ The caption used by the respondent in his pleadings is incorrect and although this has been pointed out in response to other pleadings, he continues to flaunt court rules and practice to vent his personal frustrations. The correct form of the caption is as seen above. Dr. Worrall has only ever acted within the scope of employment and Bigley has not made any allegation to the contrary.

DEPARTMENT OF LAW
OFFICE OF THE ATTORNEY GENERAL
ANCHORAGE BRANCH
1031 W. FOURTH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501
PHONE: (907) 269-5100

1
2 will not receive any emergency medication. Thus, his Original Application for Injunctive
3 Relief and the underlying Emergency Motion for Injunctive Relief should be denied.

4 Moreover, the Alaska Psychiatric Institute (API) would object to the
5 automatic entry of any stays of an Order Approving the Administration of Psychotropic
6 Medication (order). API is an acute-care psychiatric hospital. It is not a home for the
7 mentally ill. One of the purposes of civil commitment is that the commitment has, "a
8 reasonable expectation of improving [the patient's] mental condition." AS 47.30.655(6).
9 API practices an evidence-based medical approach to treating psychiatric illness.
10 Housing someone at API is not treatment. The stays proposed by Bigley actually impede
11 his freedom and forces API into the untenable position of housing him without providing
12 treatment. Thus, any automatic stays of duly entered orders should be denied.² Should
13 the court grant such an order and Mr. Bigley chooses to appeal it, the matter can be taken
14 up at that time.

15 API also renews its objections to any pleadings submitted along with any of
16 Mr. Bigley's pleadings that are not directly related to this case or that purport to
17 encapsulate "testimony." Specifically, with regards to the pleadings filed on
18 September 10, 2007, that include: Appendix pp. 52-73; and 111- 129. API also objects
19 to Bigley's version of the "facts" which were included in his pre-trial brief and are part of
20 the appendix. However, as this is clearly only one side's proposed version of what may
21 possibly be entered into evidence, API is confident the court will be able to discriminate
22 the true facts. API moved to strike the entire appendix and the "affidavits" to Bigley's
23 pre-trial brief both in writing and at the hearing on September 5, 2007. There has yet not
24 been any ruling made on the topic. The status of such pleadings and information is

25 ² API wishes to point out that any prospective order would have resulted after significant
26 testimony. That fact, taken with the known litigious nature of Mr. Bigley, make it highly
unlikely that any order written in this case—either granting or denying the medication
petition would be written without due consideration and careful thought.

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questionable and it is completely inappropriate to again include them in the pleadings filed today.

DATED: September 10, 2007

TALIS J. COLBERG
ATTORNEY GENERAL

By: 
Elizabeth Russo
Assistant Attorney General
Alaska Bar No. 0311064

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Transcription from Voicemail Message Left By William S. Bigley

Date: Monday, 3/10/08

Time: 7:39 PM

Hey Jim, they gave me another shot. You knew about it, they gave me another shot, about 15 minutes ago, threw me in the quiet room. That's the way it is. They can't F___ing touch me, they can't do it. Yeah, even the judge, even the lawyers, oh well they did it. Yeah, talked to Dan you know and Colleen and that nurse, the nurse the PRN. That's what they said. Is that a judge or a doctor? What the F___? They're not supposed to touch me. I'm madder and madder and madder. I slam doors around me. I know *(inaudible)* around here, okay. You know.

(Talking to someone else...) Charlie Snow, they put something in my F___ing body. Oh, I'm leaving you know. Oh, I'm leaving. I'm leaving Friday.

I told you Gottstein, well, they F___ing gave me a shot. *(Inaudible)* they just do it. You didn't even care. You didn't even help me. Don't know what's in that shot. Yeah, they want to wreck my whole body. Okay, my brain. F___ing. What is it? It's my F___ing body, okay. They grabbed me real bad in bed, grabbed me, twisted me around, gave me a shot right in my butt. *(Inaudible)* You know court order past now. I have fought all my F___ing life Gottstein. *(Starting to cry)* I'm fine. I don't want to do nothing. *(Inaudible)* It doesn't F___ing matter okay. I said this shit, everywhere, faxed it over here. It said walk on and off the property. *(Inaudible)* at the bottom of the page, 2006.

Call ended.

X-Symantec-TimeoutProtection: 0
X-Symantec-TimeoutProtection: 1
X-Symantec-TimeoutProtection: 2
X-Symantec-TimeoutProtection: 3
X-Symantec-TimeoutProtection: 4
X-Symantec-TimeoutProtection: 5
X-Symantec-TimeoutProtection: 6
X-Symantec-TimeoutProtection: 7
X-Symantec-TimeoutProtection: 8
X-Symantec-TimeoutProtection: 9
X-Symantec-TimeoutProtection: 10
X-Envelope-From: jim.gottstein@psychrights.org
X-Mailer: QUALCOMM Windows Eudora Version 7.0.1.0
Date: Tue, 11 Mar 2008 15:24:24 -0800
To: "elizabeth brennan-admin.state.ak.us" <elizabeth_brennan@admin.state.ak.us>
From: Jim Gottstein <jim.gottstein@psychrights.org>
Subject: TRO Package
Cc: "Jim Gottstein" <James.B.Gottstein@gottsteinlaw.com>, quinlan.steiner@alaska.gov, linda.beecher@alaska.gov, kelly_gillilan-gibson@admin.state.ak.us
X-MMR: 0

Hi Elizabeth,

I have (hopefully) attached what I think is pretty close to the completed TRO/Preliminary Injunction package. Having not heard from you, I am planning on trying to finalize it and obtain the TRO today to prevent Mr. Bigley from being forcibly drugged again tonight. Tim Twomley has confirmed that Mr. Bigley was forcibly injected with Haldol last night.

 TRO.doc

 Memo4TRO-PI.doc

 Motion4TRO-PI.doc

 ExD080311TranscriptofBBVoicemail_cleanedup .pdf

 ExA080311e-mails.pdf

 ExBMotions4InjunctiveRelief(1064).pdf



ExC070910StateOpp2EmergencyMotion.pdf

James B. (Jim) Gottstein, Esq.
President/CEO

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<http://psychrights.org/>

Psych Rights ®

Law Project for
Psychiatric Rights

The Law Project for Psychiatric Rights is a public interest law firm devoted to the defense of people facing the horrors of forced psychiatric drugging. We are further dedicated to exposing the truth about these drugs and the courts being misled into ordering people to be drugged and subjected to other brain and body damaging interventions against their will. Extensive information about this is available on our web site, <http://psychrights.org/>. Please donate generously. Our work is fueled with your IRS 501(c) tax deductible donations. Thank you for your ongoing help and support.

Date: Tue, 11 Mar 2008 15:39:55 -0800
From: "Twomey, Timothy M (LAW)" <tim.twomey@alaska.gov>
Subject: Records
To: Jim Gottstein <jim.gottstein@psychrights.org>, "Brennan, Elizabeth (DOA)" <elizabeth.brennan@alaska.gov>
Thread-topic: Records
Thread-index: AciD0MIaSXyyQFrzQc2c84iCPqlwPwAACGig
X-MS-Has-Attach: yes
X-MS-TNEF-Correlator:
X-OriginalArrivalTime: 11 Mar 2008 23:39:58.0984 (UTC)
FILETIME=[37EE8080:01C883D1]

Hello Jim and Liz:

Attached are the records pertaining to last evening's emergency medication. My client believes it has complied with the law and stands on that position.

Thanks, Tim

Tim Twomey (907) 269-5168 direct
-----Original Message-----
From: State of Alaska Dept. of Law
[mailto:lawallinfosys@law.state.ak.us]
Sent: Tuesday, March 11, 2008 3:37 PM
To: Twomey, Timothy M (LAW)
Subject:

This document was digitally sent to you using an HP Digital Sending device.



[Document.pdf](#)



[Twomey, Timothy M \(LAW\)2.vcf](#)

EMERGENCY MEDICATION ORDER GUIDELINES:

- Each LIP order for emergency medications is only valid for 24 hours. Each crisis period is limited to 72 hours.
- The order may include an initial dose and may authorize additional PRN doses. If additional doses are ordered, the order must specify the medication, the quantity of each dose, method of administration, the specific emergency conditions under which the medication may be given (e.g. "prn danger to self or others"), and the maximum amount of medication that may be administered to the patient in a 24 hour period.
- If a second or third order is required, this order may be renewed by a LIP, only after a face to face assessment of the patient prior to ordering a continuation order. The purpose of this assessment is to determine if there is still a crisis situation. The order may be renewed every 24 hours up to a total of 72 hours during the crisis period.
- If crisis situations occur repeatedly, or if it appears that they may occur repeatedly, the facility may administer psychotropic medication during no more than three crisis periods without the patient's informed consent only with court approval under AS 47.30.839.

- Name of LIP notified of crisis situation (print) _____
- If order is received by a LIP other than the Primary LIP the RN must notify Primary LIP by the end of the shift via e-mail.

Primary LIP name: (print) Carolyn Seeganna, A/NP
 Notified Date: 03/11/08 0840 Time: 0840



LIP Assessment:

pt sleeping in MAD at time of my interview reattempt report received from nursing staff regarding pt's escalation and symptom criteria met warranting emergency medication. I concur w/ interventions by clinical staff. W/ involuntary movement reported I will reassess pt for any S/E and provide opportunity for therapeutic processing and education upon awakening.

LIP Signature: Carolyn Seeganna A/NP Date: 03/11/08 Time: 0840

BIGLEY,
WILLIAM S
02/23/2008 00-66-66
01/15/1953

Emergency IM Medication - INITIAL ASSESSMENT

API Form # 06-15026A
Rev 1/23/08

PL CONTINUATION

Exhibit F, page 2 of 4

ALASKA PSYCHIATRIC INSTITUTE

DATE		TIME	ORDER	NURSE SIGNATURE
2/26/08		2:55	Emergency 1st order Lorazepam 2mg po Q4h PRN NTE 4/24 hours in 24 hours Haloperidol 5mg po Q4h PRN	PRN AAR
/		/	/	PRN AAR
2/26/08		13:00	Clinical PRN orders: Lorazepam 2mg PO and Haloperidol 5mg PO Q4h PRN AAR NTE 4/24 If refused give: Lorazepam 2mg PRN and Haloperidol 5mg IM Q4h PRN AAR NTE 4/24 order expires 24 hours p institution	PRN AAR
3/3/08		10:00	TOPP Dr. Kushan / F. Tushar Patient permitted to visit with lawyer PRN in written powder in dr. dr. Gottstein Dr. /	PRN AAR 3/3/08

Please write or print legibly.
 Please use ball point pen.

To remove copy while set in chart, lift form by bottom edge, reach under, & pull copy towards you. Tear off at proper perforation.

ORDER SHEET
 API Form #08-8010A Rev. 12/02

Emergency IM Medication—INITIAL ASSESSMENT

Initial crisis situation began; Date: 3/10/08 Time: 1930

1. Patient behavior/justification for emergency med: (check all that apply)				Directed at: (check all that apply)			
	Threat	Attempt	Actual	Self	Peer	Staff	Other
<input type="checkbox"/> Threatening w/fists, poised to strike	<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	
<input type="checkbox"/> Charging/lunging/cloze physically	<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	
<input type="checkbox"/> Jumping/shoving/grabbing/pinching				<input checked="" type="checkbox"/>			
<input type="checkbox"/> Spitting				<input checked="" type="checkbox"/>			
<input type="checkbox"/> Throwing objects at people				<input checked="" type="checkbox"/>			
<input type="checkbox"/> Bouncing off walls/pounding doors				<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<input type="checkbox"/> Banging head				<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<input type="checkbox"/> Jumping/pushing from height				<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<input type="checkbox"/> Ingesting poison/foreign objects				<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<input type="checkbox"/> Cutting/stabbing/striking w/object							
<input type="checkbox"/> Tying objects around neck							
<input type="checkbox"/> Scratching/biting							
<input type="checkbox"/> Hitting/kicking							
<input checked="" type="checkbox"/> Other: <u>Yelling, Slamming doors</u>			<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>	

2. Alternatives attempted: (check all that apply)	Results:
<input checked="" type="checkbox"/> Verbal de-escalation	<u>Replied, "Go to hell"</u>
<input checked="" type="checkbox"/> Offer of oral PRN medication	<u>Refused</u>
<input type="checkbox"/> Pain management	
<input type="checkbox"/> Voluntary time-out	
<input checked="" type="checkbox"/> Remove from stimuli	<u>Kept slamming door</u>
<input type="checkbox"/> Separate patients	
<input type="checkbox"/> Rest/sleep	
<input type="checkbox"/> Relaxation music/video	
<input type="checkbox"/> 1:1 supervision	
<input type="checkbox"/> Warm bath/shower	
<input type="checkbox"/> Journaling	
<input type="checkbox"/> Take a walk	
<input type="checkbox"/> Help w/personal matter	
<input type="checkbox"/> Other:	

RN Assessment Summary within 1 hour: (include patient's response to intervention)

Pt has been escalating since returning from court. Pt has been up at desk making multiple demands, yelling at staff. Several complaints from other pts that Bill was scaring them. Offered PRN refused. PRN's held pt in bed using MAIBT technique. Haldol 5mg IM and Lorazepam 2mg IM given. Pt continued to yell, obstructive at staff, verbally abusive. We tried to encourage pt to stay in room but pt kept getting up and yelling and slamming doors. Pt placed in quiet room for approx. 1.5 hours. Continued to monitor

RN Signature: [Signature] Date: 3-10-08 Time: 1925

P
BIGLEY,
WILLIAM S
02/23/2008 00-56-85
01/16/1953

Emergency IM Medication – INITIAL ASSESSMENT

API Form # 06-15026A
Rev 1/23/08

Exhibit F, page 4 of 4