

Law Project for Psychiatric Rights
406 G Street, Suite 206
Anchorage, AK 99501
907-274-7686 phone
907-274-9493 fax

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Probate Division

MAR 12 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 RENEWED 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 (PsychRights), has renewed his motion 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.¹

¹ On March 12, 2008, the clerk of the probate court, presumably on the instructions of the Court, "returned" Mr. Bigley's previous motion on the grounds that PsychRights was not "a party" in this case and also stating, "Documents may be refiled upon the Determination of Commitment and upon the filing of a new entry of appearance." An appropriate new limited entry of appearance pursuant to Civil Rule 81(d) has been filed contemporaneously herewith, but the commitment proceeding has not yet been determined. The problem, as demonstrated in yesterday's filing, is that in spite of efforts to get the Public Defender Agency to deal with API's blatantly improper forced drugging of Mr. Bigley pending the commitment hearing and before a forced drugging order might be issued pursuant to AS 47.30.839, it has failed to do so. Therefore, PsychRights is renewing Mr. Bigley's motion

I. SUMMARY

On March 10, 2008, purportedly under the authority of AS 47.30.838, API forcibly injected Mr. Bigley with Haldol, a very powerful neuroleptic, the intrusiveness of which the Alaska Supreme Court has equated with lobotomy and electroshock,² and Ativan, a benzodiazepine, which is in the same class of drugs as Valium (Emergency Order).³ API has a history of flouting the restrictions of AS 47.30.838 in forcibly drugging Mr. Bigley. The Emergency Order, on its face, proves that the conditions required before psychotropic drugs could be forced upon Mr. Bigley pursuant to AS 47.30.838 did not exist. In light of this Mr. Bigley should be protected by this Court from the irreparable harm inflicted on him by the improper forcible drugging to which he has repeatedly been subjected, including as recently as two nights ago.

II. DISCUSSION

AS 47.30.838(a)(1) allows emergency drugging only to "preserve the life of, or prevent significant physical harm to, the patient or another person." On its face, the

for a temporary restraining order and preliminary injunction. Every single forced drugging is an affront upon whom it is being inflicted and Mr. Bigley is entitled to have an attorney represent his interests in preventing him from being improperly forcibly drugged. Since PsychRights is willing to do so, Mr. Bigley is also entitled to have PsychRights represent him. No disrespect is meant to the Court in this filing.

² *Myers v. Alaska Psychiatric Institute*, 138 P3d 238, 242 (Alaska 2006); *Wetherhorn v. Alaska Psychiatric Institute*, 156 P.3d 371, 382 (Alaska 2007)

³ Exhibit A.

Emergency Order proves no one's life was in danger nor was there any danger of significant physical harm to anyone.⁴

According to the Emergency Order, the drugging was ordered because Mr. Bigley was yelling, and scaring other patients. The form also checks the box that Mr. Bigley was "threatening w/fists, poised to strike," and "charging/lunging/close physically." With respect to these check boxes, they don't show that anyone's life was in danger or there was any real threat of significant physical harm. They are also almost certainly untrue, not only because they are contradicted by the written narrative, but because, it is completely out of character for Mr. Bigley to engage in such behavior despite the extreme provocation to which he is subjected. The temporary restraining order should be granted and then the true facts about Mr. Bigley's behavior giving rise to API's decision to forcibly drug him as an "emergency" can, if necessary, be developed during consideration of the motion for preliminary injunction.

As mentioned, API has a history and pattern of flouting the restrictions of AS 47.30.838 in purporting to forcibly drug him as an emergency. In Mr. Bigley's February,

⁴ Counsel for API makes the bald assertion that "My client believes it has complied with the law and stands on that position." A hearing on the motion for preliminary injunction should be held to test that unsupported assertion. Under what circumstances API may properly invoke AS 47.30.838 is an important issue upon which API should be given guidance and to protect psychiatric respondents from improper "emergency" forced drugging. *See, Myers*, 138 P.3d at 242, citing to AS 47.30.838 ("our opinion does not extend to the use of psychotropic medication in crisis or emergency situations").

2007, commitment hearing, Dr. Worrall, his then treating psychiatrist, who had known Mr. Bigley off and on for 20 years⁵ testified as follows:

And on the unit, he did require two emergency injections of Haldol and Ativan, which are psychotropic medications that the staff gave him under emergency conditions when he was creating dangerous situations on the unit. And it wasn't that he was assaulting anybody, but he was in a state of mind where he was screaming so loudly that it was upsetting other patients who were becoming unstable, and the staff felt that was an emergency.⁶ . . .

He's very hard to tolerate, and the only thing that fixes that is medication.⁷ . .

He's not assaulted anybody.⁸ . . .

He could be pretty scary, but it's really all talk. He's really not the kind of guy that goes around hitting people.⁹

Thus, Dr. Worrall testified (unknowingly) that Mr. Bigley was improperly subjected to "emergency" forced drugging in February of last year because "upsetting other patients" is far from satisfying the requirements of AS 47.30.838. In addition, Dr. Worrall's testimony makes clear that the real reason Mr. Bigley is being drugged is because "He's very hard to tolerate" (when he yells at them and slams doors for locking him up and forcibly drugging him, often improperly). Dr. Worrall testified that Mr. Bigley has "not assaulted anybody" and that while he can be scary he doesn't hit people. API did not have a good faith belief that anyone's life was in danger or anyone was in danger of significant

⁵ Exhibit B, p.8(27):22.

⁶ Exhibit B, p. 9(30):13-22.

⁷ Exhibit B, p. 11(41):6-7.

⁸ Exhibit B, p. 14(51):13.

⁹ Exhibit B, p.15(54-55):25-2.

physical danger when it forcibly drugged Mr. Bigley two nights ago with the Emergency Order.

In September of 2007, when API could not obtain an immediate forced drugging order under AS 47.30.839, it forcibly drugged him anyway. This resulted in motions for emergency injunctive relief to both the Superior Court and the Alaska Supreme Court.¹⁰

API responded that it wouldn't do it any more.¹¹ 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.¹²

API has now done it again and emergency injunctive relief in the form of a temporary restraining order is warranted until, if necessary, a hearing on the motion for preliminary injunction is held.

As set forth above, 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 Alaska Constitution.¹³ Each forced drugging is a physical and mental assault on the patient. The following will give the Court an idea of what it feels like to be given a neuroleptic such as Haldol:

¹⁰ Exhibit C. 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 days earlier. This appears to be technically correct.

¹¹ Exhibit D.

¹² *Id.*

¹³ *Myers* 138 P3d 238, 242 (Alaska 2006); *Wetherhorn*, 156 P.3d 371, 382 (Alaska 2007).

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. . . .

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.¹⁴

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

III. IRREPARABLE HARM/BOND

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

IV. NOTICE HAS BEEN GIVEN

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.

¹⁴ JACK HENRY ABBOT, IN THE BELLY OF THE BEAST: LETTERS FROM PRISON, 35-36 (Vintage Books 1991) (emphasis omitted).


V. CONCLUSION

Since API asserts that it has complied with AS 47.30.838,¹⁵ Mr. Bigley requests that the Temporary Restraining Order be granted until such time as an evidentiary hearing can be held for a preliminary injunction, if necessary. Such a hearing 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.¹⁶

DATED: March 12, 2008.

Law Project for Psychiatric Rights

By: _____


James B. Gottstein
ABA # 7811100

¹⁵ Exhibit A, p.1.

¹⁶ It would conserve judicial time if Mr. Bigley were also allowed time to conduct a few depositions to (1) flesh out what actually happened before Mr. Bigley was forcibly drugged on March 10, 2008, and (2) ascertain API's training and actual policy for emergency drugging under AS 47.30.838.

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: AciD0MlaSXyyQFrzQc2c84iCPqlwPwAACGig
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, ANPNotified Date: 03/11/08 8840 Time: 0840**LIP Assessment:**

pt sleeping in NAD at time of my interview. report received from Nursing Staff regarding pt's escalation and symptoms criteria met warranting emergency medication. I conducted interventions by clinical staff. No involuntary movements reported. I will reassess pt for any S/E and provide opportunity for therapeutic processing and education upon awakening.

LIP Signature: Carolyn Seeganna, ANPDate: 03/11/08Time: 0840

BIGLEY,
WILLIAM S
02/23/2008 00-58-66
01/15/1953

Emergency IM Medication - INITIAL ASSESSMENT

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

PL (Continuation)

Exhibit A, page 2 of 4

ALASKA PSYCHIATRIC INSTITUTE

DATE		TIME	ORDER	NURSE SIGNATURE
2/26/08		1255	Emergency 1/1/08 Loxapram 2mg po Q4h PRN Haloperidol 5mg po Q4h PRN NT 4/24	[Signature]
DATE		TIME		
2/26/08		1330	Clarified PRN orders: Loxapram 2mg PO and Haloperidol 5mg PO Q4h PRN AAAT NT 4/24 If refused give: Loxapram 2mg PRN and Haloperidol 5mg IM Q4h PRN AAAT NT 4/24 order expires 24 hours p initiation	[Signature]
DATE		TIME		
3/3/08		10	TORR Dr. Kushan / F. Tison Patient permitted to visit with lawyer PRN in winter garden including Gottstein Dr.	[Signature]

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 10B-8010A Rev. 12/02

Exhibit A, page 3 of 4

Alaska Psychiatric I (907) 269-7159

Mar-11-2008 13:14

Emergency IM Medication—INITIAL ASSESSMENT

Initial crisis situation began; Date: 3/10/08 Time: 18301. Patient behavior/justification for emergency med:
(check all that apply)

Behavior	Threat	Attempt	Actual	Directed at: (check all that apply)	Self	Peer	Staff	Other
<input type="checkbox"/> Threatening w/ fists, poised to strike	<input checked="" type="checkbox"/>			Staff	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	
<input type="checkbox"/> Charging/hungry/elope 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 type="checkbox"/> Banging head								
<input type="checkbox"/> Jumping/pushing from height								
<input type="checkbox"/> Ingesting poison/foreign objects								
<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"/>					
<input type="checkbox"/> Other: <u>Yelling, Slamming doors</u>							<input checked="" type="checkbox"/>	

2. Alternatives attempted: (check all that apply)

<input checked="" type="checkbox"/> Verbal de-escalation	Result: <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"/> Removal from stimuli	<u>Kept slamming door</u>
<input type="checkbox"/> Separate patients	
<input type="checkbox"/> Rest/nap	
<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)

It has been escalating since returning from court. It has been up at desk making multiple demands, yelling at staff. Several compliments from other pts that Bill was scaring them offered PRN. Refused. PNA's held it in bed using MAJOR technique. Haldol 5mg IM and Lorazepam 2mg IM given. It continued to yell profanities at staff, verbally abusive. We tried to encourage it to stay in room but it kept getting out and yelling and slamming doors. It placed in guide room for approx. 1.5 hours, continued to monitor.

RN Signature: Duffy BurgessDate: 3-10-08Time: 1925

P
BIGLEY,
WILLIAM S
02/23/2008 00-56-86
01/16/1953

Emergency IM Medication – INITIAL ASSESSMENT

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

Exhibit A, page 4 of 4

IN THE TRIAL COURTS FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT
AT ANCHORAGE

In the Matter of the Necessity
for the Hospitalization of
W.S.B.,

Respondent.

No. 3AN-07-247 PR

30 DAY COMMITMENT HEARING

PAGES 1 THROUGH 86

BEFORE THE HONORABLE ANDREW BROWN
MASTER

Anchorage, Alaska
February 24, 2007
2:41 p.m.

APPEARANCE:

FOR STATE OF ALASKA: Elizabeth Russo
Attorney General's Office
Human Services Division
1031 West 4th Avenue, Suite 200
Anchorage AK 99501

FOR W.S.B.: Leslie Dickson
Office of Public Advocacy
900 West 5th Avenue, Suite 525
Anchorage AK 99501

NOTE: DUE TO THE EXTREME POOR QUALITY OF THE RECORDING, MANY
"INDISCERNIBLE" PORTIONS APPEAR IN THE TRANSCRIPT.

<p style="text-align: right;">Page 2</p> <p>1 PROCEEDINGS</p> <p>2 2607-34</p> <p>3 SIDE A</p> <p>4 872</p> <p>5 THE COURT: This is the case of the</p> <p>6 hospitalization for William Bigley. (Indiscernible)</p> <p>7 number 07-247. The Petition for 30 Day Commitment was</p> <p>8 filed February 23rd, and also the court received the</p> <p>9 Petition for Court Approval of Administration of</p> <p>10 Psychotropic Medication.</p> <p>11 Note for the record that I am doing this</p> <p>12 hearing telephonically from my chambers at 303 K</p> <p>13 Street. (Indiscernible) The assistant attorney general</p> <p>14 and (indiscernible) are at API, along with Mr. Bigley,</p> <p>15 with his attorney, (indiscernible) are there. Also, on</p> <p>16 the phone is the court appointed guardian for Mr.</p> <p>17 Bigley -- guardianship case -- and I think at this</p> <p>18 point I need to hear from Ms. Dickson. Is it all right</p> <p>19 with your client that (indiscernible) on the phone, or</p> <p>20 does she want me to be there in person.</p> <p>21 MS. DICKSON: Well, Your Honor, I think it's</p> <p>22 (indiscernible). First of all, I did talk to Mr.</p> <p>23 Bigley...</p> <p>24 UNIDENTIFIED MALE: (Indiscernible).</p> <p>25 MS. DICKSON: I did talk to Mr. Bigley</p>	<p style="text-align: right;">Page 4</p> <p>1 general practice is for (indiscernible).</p> <p>2 MR. BIGLEY: (Indiscernible).</p> <p>3 THE COURT: Mr. Bigley wants to represent</p> <p>4 himself at this hearing?</p> <p>5 MS. DICKSON: Um, that's what he informed me.</p> <p>6 I think, Your Honor, I'm not requesting to withdraw. I</p> <p>7 think the general practice is that the Public</p> <p>8 Defender's Office remains appointed in this case, for</p> <p>9 purposes of (indiscernible).</p> <p>10 THE COURT: Okay.</p> <p>11 MS. DICKSON: But, I just -- Mr. Bigley, I</p> <p>12 didn't want him to get upset, because he did tell me</p> <p>13 that, and I just wanted to explain that that's what he</p> <p>14 said to me prior to coming into court.</p> <p>15 THE COURT: Okay. Well, then, what I am going</p> <p>16 to do is speak to Mr. Bigley (indiscernible).</p> <p>17 Now, Mr. Bigley, this is Master Brown. Can</p> <p>18 you hear me all right?</p> <p>19 MR. BIGLEY: Yeah. Y -- yo -- you sound good.</p> <p>20 Comin' in great.</p> <p>21 THE COURT: Okay. But -- but -- okay. Now,</p> <p>22 the thing is, I want to make sure -- Ms. Dickson is</p> <p>23 there to help you. If you do not want her to represent</p> <p>24 you in the hearing, she can still stay there and if you</p> <p>25 have questions that you want to ask her -- you know,</p>
<p style="text-align: right;">Page 3</p> <p>1 (indiscernible) to court about you presiding over this</p> <p>2 matter by phone.</p> <p>3 THE COURT: Uh-huh (affirmative).</p> <p>4 MS. DICKSON: And he did represent to me, that</p> <p>5 was okay...</p> <p>6 MR. BIGLEY: Yeah, that's okay.</p> <p>7 MR. DICKSON: Okay. Um...</p> <p>8 MR. BIGLEY: (Indiscernible).</p> <p>9 MS. DICKSON: Okay.</p> <p>10 MR. BIGLEY: (Indiscernible).</p> <p>11 MS. DICKSON: The other issue is</p> <p>12 representation, Your Honor. This was continued on</p> <p>13 Friday. The Public Defender Agency is aware that Jim</p> <p>14 Gottstein represents Mr. Bigley in other matters. So</p> <p>15 we did confirm with him whether or not he would be</p> <p>16 representing Mr. Bigley on this case.</p> <p>17 MR. BIGLEY: (Indiscernible).</p> <p>18 MS. DICKSON: He told my office that, no, he</p> <p>19 was not going to represent him on this case.</p> <p>20 Mr. Bigley, in discussing with him the</p> <p>21 telephonic issue, has asked that he represent himself,</p> <p>22 Your Honor.</p> <p>23 MR. BIGLEY: I can represent myself</p> <p>24 (indiscernible) no problem (indiscernible).</p> <p>25 MS. DICKSON: I th -- I think -- I think the</p>	<p style="text-align: right;">Page 5</p> <p>1 questions as to how -- (indiscernible).</p> <p>2 MR. BIGLEY: (Indiscernible).</p> <p>3 THE COURT: Mr. Bigley, this is Master Brown.</p> <p>4 And (indiscernible).</p> <p>5 MR. BIGLEY: (Indiscernible).</p> <p>6 THE COURT: And, listen to me. Ms. Russo will</p> <p>7 be asking the questions of her witnesses, Dr. Worrall,</p> <p>8 and then you'll have the right to ask questions of the</p> <p>9 doctor. Then you will have the right to testify, if</p> <p>10 you want. And we'll just see how things go. Okay? Is</p> <p>11 that all right with you?</p> <p>12 MR. BIGLEY: (Indiscernible) TV or radio, or,</p> <p>13 ah, you know, news?</p> <p>14 THE COURT: Okay. Well, there's not gonna be</p> <p>15 anything in the TV...</p> <p>16 MR. BIGLEY: (Indiscernible).</p> <p>17 THE COURT: Okay. Well, I'm going to proceed</p> <p>18 with the hearing as best I can. Ms. Dickson, I would</p> <p>19 appreciate you standing by, because...</p> <p>20 MR. BIGLEY: (Indiscernible).</p> <p>21 THE COURT: ...at some point I may just have</p> <p>22 to ask you to represent Mr. Bigley, so I will</p> <p>23 (indiscernible) be prepared to cross examine, in case</p> <p>24 Mr. Bigley doesn't have the ability, so.</p> <p>25 MS. DICKSON: I will, Your Honor.</p>

1 THE COURT: Okay.
 2 MR. BIGLEY: Where'd this come from?
 3 THE COURT: So, with that, Ms. Russo, who is
 4 your first witness?
 5 MS. RUSSO: Your Honor, I was gonna call Steve
 6 Young. Typically, we ask the court visitor to go
 7 first, but since Mr. Young is on the phone...
 8 MR. BIGLEY: He's my guardian.
 9 MS. RUSSO: ...is it okay with Ms. Dickson if
 10 I call Mr. Young first?
 11 MR. BIGLEY: No. (Indiscernible). That's it.
 12 THE COURT: Okay. Mr. Bigley, this is Master
 13 Brown. Now, I don't want you interrupting...
 14 MR. BIGLEY: Okay. I'll (indiscernible). I'm
 15 sorry, Your Honor.
 16 THE COURT: (Indiscernible) it's very
 17 important, okay?
 18 MR. BIGLEY: Okay. I'm sorry, Your Honor.
 19 THE COURT: But especially because I'm on the
 20 phone and it just makes it more difficult for me to
 21 sort out who is saying what.
 22 MR. BIGLEY: (Indiscernible).
 23 THE COURT: Okay. So, let's get -- is it okay
 24 for Mr. Young to be the first witness?
 25 MS. DICKSON: Yes, that's fine, Your Honor.

1 THE COURT: Okay. So, Mr. Young, I'll just
 2 swear you in. Do you swear or affirm to tell the
 3 truth, the whole truth, and nothing but the truth?
 4 (Side conversation)
 5 STEVE YOUNG
 6 called as a witness, being first duly sworn upon oath,
 7 testified as follows:
 8 (Oath administered)
 9 WITNESS: I do, Your Honor.
 10 THE COURT: And, state your full name for the
 11 record?
 12 WITNESS: My name is Steven Young.
 13 THE COURT: Okay. Ms. Russo, if you want to
 14 inquire.
 15 MS. RUSSO: Thank you.
 16 DIRECT EXAMINATION
 17 BY MS. RUSSO:
 18 Q Mr. Young, are you familiar with Mr. Bigley?
 19 A Yes, I am. I -- the Public Guardian's Office
 20 has been Mr. Bigley's conservator for a number of
 21 years, and his guardian...
 22 MR. BIGLEY: Six years.
 23 A ...for around two years.
 24 MR. BIGLEY: Six years (indiscernible).
 25 Q And so you've known him for approximately six

1 years?
 2 A Ah, longer than that. I have known Mr. Bigley
 3 since approximately 1997.
 4 Q And how is Mr. Bigley currently doing?
 5 A Poorly, in my opinion. Um, Mr. Bigley was
 6 discharged from API on or around the 3rd of
 7 January, and has not been compliant with any
 8 mental health treatment since that time, and has
 9 gradually gotten worse, in terms of his
 10 psychosis.
 11 And recently he was (indiscernible) I'm going
 12 to go back to the 5th of February. That's the
 13 day when we had to ask Mr. Bigley to stay away
 14 from the Office of Public Advocacy because he was
 15 unable to maintain any appropriate level of
 16 behavior coming into our office. And he was
 17 unable to follow that request. He came in
 18 repeatedly after that, and we attempted to refer
 19 him to his attorney, Jim Gottstein's office. And
 20 we began trying to work with Mr. Gottstein and
 21 Mr. Bigley together. The issue was, how we were
 22 going to provide services -- guardianship service
 23 to Mr. Bigley.
 24 It's a complicated case...
 25 MR. BIGLEY: (Indiscernible) work for you,

1 Steve.
 2 A Our office provides some unconventional
 3 assistance to Mr. Bigley because of his
 4 uniqueness. He doesn't readily accept, nor do
 5 agencies readily provide out patient mental
 6 health services to him. In fact, he said
 7 (indiscernible) from several agencies. And when
 8 he was released on the 2nd of January, ah, Mr.
 9 Gottstein obtained some outpatient assistance
 10 through a new agency called Choices, which he
 11 evaporated after a week. And, so, although he
 12 was not compliant with his medication, and was
 13 deteriorating, we were still in a position of
 14 trying to make sure that he had a place to live,
 15 and regular food purchasing was going on, and
 16 that sort of thing. Which we did up until the
 17 time that we felt it was dangerous to go into the
 18 grocery store, and that kind of thing. And then
 19 we were trying to coordinate with Mr. Gottstein
 20 as to how we would do this.
 21 And, neither Mr. Gottstein nor Mr. Bigley
 22 were able to assist in coming up with any kind of
 23 a plan after...
 24 MR. BIGLEY: Hey, he's my lawyer, you know.
 25 Gottstein, he's -- he's (indiscernible). Why do you

<p style="text-align: right;">Page 10</p> <p>1 always have to bring him in for. You don't know him.</p> <p>2 A (Indiscernible). So we were trying to come up</p> <p>3 with a plan to provide needed groceries to Mr.</p> <p>4 Bigley, and he was completely unable to focus on</p> <p>5 the issue. He was (indiscernible) -- his belief</p> <p>6 that he's worth a lot of money, and that</p> <p>7 (indiscernible) to him, and -- and -- and that</p> <p>8 was his focus, over, you know, his recognized</p> <p>9 needs.</p> <p>10 On top of that, he was beginning to make</p> <p>11 threats against, um -- he would make them against</p> <p>12 our office, which...</p> <p>13 MR. BIGLEY: Yeah. You, Jim, the secretaries,</p> <p>14 all (indiscernible) there. I'm not buyin'.</p> <p>15 A Right. And...</p> <p>16 MR. BIGLEY: (Indiscernible).</p> <p>17 A ...the threats could include the entire</p> <p>18 building...</p> <p>19 MR. BIGLEY: That's right.</p> <p>20 A ...and that sort of thing.</p> <p>21 MR. BIGLEY: (Indiscernible).</p> <p>22 A My opinion, after that, said he was not able</p> <p>23 to look after his basic needs, and, as his</p> <p>24 guardian...</p> <p>25 MR. BIGLEY: Guard me.</p>	<p style="text-align: right;">Page 12</p> <p>1 (Side conversation)</p> <p>2 A I mean, (indiscernible) in a (indiscernible)</p> <p>3 position (indiscernible) and coordinator needed</p> <p>4 assistance. And, so, generally speaking, we're</p> <p>5 working with a community health provider...</p> <p>6 MR. BIGLEY: They're diggin' in my pockets.</p> <p>7 A ...(indiscernible) Mr. Bigley's needs. And we</p> <p>8 would make sure that they're receiving those</p> <p>9 services. And we -- we've advocated for services</p> <p>10 for Mr. Bigley from (indiscernible). In fact,</p> <p>11 they have (indiscernible) -- they've taken --</p> <p>12 they had somebody assigned to his case, but when</p> <p>13 Mr. Gottstein began representing him and finding</p> <p>14 a third party agency called Choices</p> <p>15 (indiscernible).</p> <p>16 MR. BIGLEY: They're diggin' in my pocket.</p> <p>17 A Mr. Bigley declined the community mental</p> <p>18 health services that they've quite rapidly backed</p> <p>19 out. Or, you know, stopped providing that once a</p> <p>20 week contact.</p> <p>21 And then -- then (indiscernible) a week, and</p> <p>22 then the person that Mr. Gottstein had lined up</p> <p>23 for the (indiscernible) was either unable to</p> <p>24 continue, or -- or, Mr. Bigley also declined his</p> <p>25 assistance. And then he came back to the Public</p>
<p style="text-align: right;">Page 11</p> <p>1 A ...I needed to follow the formal proceeding to</p> <p>2 ask that he be evaluated at API.</p> <p>3 Q And so you talked about that you were trying</p> <p>4 to...</p> <p>5 MR. BIGLEY: (Indiscernible) go home.</p> <p>6 Q ...assist him in purchasing food. Has Mr.</p> <p>7 Bigley been able -- have -- have you been doing</p> <p>8 that?</p> <p>9 A I (indiscernible) take Mr. Bigley grocery</p> <p>10 shopping once ever seven to 10 days or so. And I</p> <p>11 take him to the store, and we go through and he</p> <p>12 helps pick out things that he wants, and then we</p> <p>13 bring them home...</p> <p>14 MR. BIGLEY: (Indiscernible)...</p> <p>15 A ...(indiscernible)</p> <p>16 MR. BIGLEY: ...no food.</p> <p>17 A And, ah -- and that's the way he gets</p> <p>18 groceries purchased.</p> <p>19 Q And then what else -- when you had</p> <p>20 characterized the assistance that you were</p> <p>21 providing him as "unconventional," could you</p> <p>22 describe what you meant by that?</p> <p>23 A Well, the Office of Public Advocacy is</p> <p>24 appointed as his guardian. But OPA typically</p> <p>25 does not act as a direct service provider.</p>	<p style="text-align: right;">Page 13</p> <p>1 Guardian's Office asking for assistance.</p> <p>2 Q Okay.</p> <p>3 MR. BIGLEY: (Indiscernible).</p> <p>4 Q And then has Mr. Bigley been able to maintain</p> <p>5 for longer period of time, than the most recent</p> <p>6 period of six -- or, approximately six weeks in</p> <p>7 the past -- indicated that he -- that was the</p> <p>8 very -- has he -- when he's doing well, has he</p> <p>9 been able to maintain outside of API for longer?</p> <p>10 A He has. Although, (indiscernible) -- when he</p> <p>11 was discharged, I want to say in the spring of</p> <p>12 2004, thereabouts...</p> <p>13 MR. BIGLEY: (Indiscernible).</p> <p>14 A ...he went more than six months without any</p> <p>15 API admission, and it was when his medications</p> <p>16 were changed...</p> <p>17 MR. BIGLEY: Yeah. He called the cops on me</p> <p>18 this time.</p> <p>19 A ...(indiscernible) medication, and API was</p> <p>20 acting as the outpatient provider. Bill</p> <p>21 voluntarily came to API every week to get a</p> <p>22 (indiscernible) injection.</p> <p>23 MR. BIGLEY: (Indiscernible).</p> <p>24 A And he was much better off with that</p> <p>25 medication than he...</p>

1 MR. BIGLEY: (Indiscernible) rob my money.
 2 A ...(indiscernible) better off. Characterizing
 3 that, I would say that he was able to maintain
 4 some modicum or appropriate behavior...
 5 MR. BIGLEY: (Indiscernible) be stupid.
 6 A (indiscernible) wouldn't get upset, but that
 7 he would actually apologize when he got upset.
 8 He had a sense of humor. He -- he wasn't yelling
 9 and screaming, and...
 10 MR. BIGLEY: Yeah. Right.
 11 A ...and be hostile, which is (indiscernible).
 12 MR. BIGLEY: Am I schizophrenic?
 13 Q And do you think that Mr. Bigley would be able
 14 to maintain outside...
 15 MR. BIGLEY: Yeah. Yeah. Yeah.
 16 (indiscernible), yeah.
 17 Q ...right now?
 18 MR. BIGLEY: Yeah. (Indiscernible).
 19 A (Indiscernible) without his (indiscernible).
 20 MR. BIGLEY: (Indiscernible).
 21 A Mr. Bigley was...
 22 MR. BIGLEY: (Indiscernible) ya'.
 23 (Indiscernible)...
 24 A (Indiscernible).
 25 MR. BIGLEY: (Indiscernible) ...pay the bills.

1 A In September, October of 2006, and, ah, it was
 2 because, in his agitated state, he tends to
 3 become angry and hostile at virtually everybody.
 4 And he had become angry at the department
 5 manager, and they had evicted him.
 6 MR. BIGLEY: No, he wouldn't pay the bill when
 7 I was in here. He made sure that (indiscernible) too
 8 much stuff. Don't like to me.
 9 A It's charged to an (indiscernible)...
 10 MR. BIGLEY: (Indiscernible).
 11 A And, ah, that...
 12 MR. BIGLEY: (Indiscernible)
 13 A (indiscernible) his living arrangements
 14 was -- did not work out well. He (indiscernible)
 15 and ended up...
 16 MR. BIGLEY: (Indiscernible).
 17 A ...back in the hospital for a brief period.
 18 MR. BIGLEY: (Indiscernible).
 19 A There was the (indiscernible) that
 20 hospitalization that Mr. Gottstein stepped in and
 21 decided to represent Mr. Bigley. And it's since
 22 that time that he has declined medication and
 23 even declined...
 24 MR. BIGLEY: You can't force medication on
 25 (indiscernible).

1 A ...(indiscernible) with the Office of Public
 2 Advocacy.
 3 Mr. Bigley came out of the hospital in early
 4 January believing that...
 5 MR. BIGLEY: (Indiscernible).
 6 A ...he no longer had a public guardian; would
 7 never have to take medication again; and was
 8 going to be able to move to California, all with
 9 the help of Mr. Gottstein. And it was quite
 10 evident right early on that...
 11 MR. BIGLEY: It's horrible down there, man.
 12 A ...there was a large difference from, um...
 13 MR. BIGLEY: (Indiscernible).
 14 A ...(indiscernible) discharged from API in the
 15 past. (Indiscernible) speaking...
 16 MR. BIGLEY: (Indiscernible).
 17 A ...(indiscernible) been his primary source of
 18 support.
 19 MR. BIGLEY: (Indiscernible).
 20 MS. RUSSO: Those are all the questions I have
 21 for Mr. Young.
 22 THE COURT: All right. Ms. Dickson, because
 23 of what (indiscernible)...
 24 MR. BIGLEY: (Indiscernible).
 25 THE COURT: ...strictly following what's going

1 on, I'm gonna ask you to really step in and represent
 2 him. And if you have any questions, cross examination,
 3 go ahead.
 4 MS. DICKSON: I do, Your Honor.
 5 CROSS EXAMINATION
 6 BY MS. DICKSON:
 7 Q Mr. Young, what is your educational
 8 background?
 9 A I have an undergraduate degree in psychology,
 10 and I went to graduate school to teach biology.
 11 MR. BIGLEY: Do you have (indiscernible).
 12 Q So are you qualified -- are you qualified to
 13 make any type of mental health diagnosis?
 14 A No, ma'am.
 15 Q Okay. And, does Mr. Bigley currently have an
 16 apartment?
 17 A He does.
 18 Q Does he currently have enough financial
 19 resources to pay his rent?
 20 A Yes, he does.
 21 Q Does he have enough financial resources to pay
 22 his bills?
 23 A He does.
 24 Q Okay. Mr. Young, one of your big concerns
 25 that I think you testified to a couple times, was

1 regarding groceries. And that you had a hard
2 time making arrangements with Mr. Bigley. And I
3 could speaking wrong. Was it delivered
4 groceries?

5 A It was to be able to provide groceries to Mr.
6 Bigley somehow. That was the -- that was the
7 question...

8 MR. BIGLEY: (Indiscernible) a hundred dollar
9 check, a \$10 cab ride, and (indiscernible) my house,
10 but you wouldn't do it.

11 Q Now, Mr. Bigley -- does Mr. Bigley have -- do
12 you give him any disposable income to spend on
13 (indiscernible)?

14 MR. BIGLEY: No. \$50 a week. That's it.

15 A I -- I provide Mr. Bigley with a \$50 personal
16 spending (indiscernible) each week, and a check
17 to purchase a carton of cigarettes.

18 MR. BIGLEY: (Indiscernible).

19 MS. DICKSON: Okay.

20 A And then depending upon what arrangements
21 there is for groceries, either a check is
22 provided for -- payable to a vendor, so that
23 somebody can help him -- help with the
24 transportation and the shopping, and
25 (indiscernible) in the event that I'm doing it, I

1 his (indiscernible) when he brings the carton to
2 the register. And he has been asked to stay away
3 from -- but, you know, he's had to find new
4 places to buy cigarettes when that happens.

5 MR. BIGLEY: (Indiscernible) don't want your
6 stinkin' (indiscernible).

7 A And sometimes he's torn up the check,
8 (indiscernible)...

9 MS. DICKSON: (Indiscernible).

10 MR. BIGLEY: (Indiscernible).

11 A ...had torn it up, and at those times we
12 usually (indiscernible) to the grocery shopping.

13 MR. BIGLEY: No, you don't.

14 Q But, Mr. Bigley, when you go grocery shopping,
15 he's able to pick out what he would like to eat?

16 A Not really. He's able to hold on to the back
17 of the cart, and somebody has to hold onto the
18 front so that he doesn't run into things.

19 MR. BIGLEY: They ram my cart.

20 A (Indiscernible) if somebody comes between and
21 an item that he's looking for on the shelves, or
22 in a case, or whatever, it's usually necessary to
23 position yourself in front of him so that he
24 doesn't begin verbally accosting the person who
25 is standing between him and something that he's

1 simply go and get what he wants, and then...

2 MR. BIGLEY: (Indiscernible).

3 A (indiscernible) assist in getting them back to
4 his apartment (indiscernible), then I seen the
5 reimbursement for that through the channels here
6 at OPA.

7 Q So, Mr. Bigley is able -- he knows where your
8 office is, is that correct?

9 MR. BIGLEY: I can go down there.

10 A Yes, he does.

11 Q And so he's able to transport himself down to
12 meet with you at your office?

13 MR. BIGLEY: I don't go down there.

14 A He -- apparently -- I mean, he has a bus pass,
15 and he's able to get on the bus and ride it
16 downtown.

17 Q And you say you give him money to buy a carton
18 of cigarettes. So, is he able to go to the store
19 and buy a carton of cigarettes -- or a pack of
20 cigarettes when he wants them?

21 A Not always, no. Ah, he has been kicked out of
22 the cigarette store (indiscernible)...

23 MR. BIGLEY: (Indiscernible) exactly -- he
24 wants to know where his money's at...

25 A ...(indiscernible) or they will ask him for

1 looking for. (Indiscernible)...

2 MR. BIGLEY: They know who I am
3 (indiscernible).

4 A ...(indiscernible) in his way, and he's
5 generally...

6 MR. BIGLEY: They know who I am.
7 (Indiscernible).

8 A ...(indiscernible), and that he's
9 (indiscernible)...

10 MR. BIGLEY: (Indiscernible).

11 A ...(indiscernible) that somebody is listening
12 to what he is saying, or trying to get close to
13 him to touch him, or something of that like.

14 Q Okay. And, Mr. Young, I understand that he
15 has personality qualities that make good shopping
16 at a grocery store difficult. But I'm talking
17 about his basic ability to go pick up food, and
18 purchase it, and eat it?

19 A He lacks that ability (indiscernible). He's
20 not...

21 MR. BIGLEY: (Indiscernible).

22 A He would not be capable, in my opinion,...

23 MR. BIGLEY: (Indiscernible).

24 A ...of getting through the grocery...

25 MR. BIGLEY: (Indiscernible).

1 A ...(indiscernible). Back when -- when this --
 2 just prior to me filing the petition, I -- I
 3 asked him if this is something that he would
 4 prefer to do. He wasn't even able to give me
 5 response to the question. His response was
 6 completely unrelated to the question.
 7 But that's -- the problem is (indiscernible).
 8 Number one, he is usually pretty agitated, which
 9 makes the grocery store, where there are a lot of
 10 people, and lines, and that kind of thing...
 11 MR. BIGLEY: I always go shoppin' by myself,
 12 man. I go to (indiscernible) stores.
 13 A And that's not his personality -- it's not
 14 just his presentation. He's just not -- he's not
 15 disposed to being able to deal with people
 16 appropriately.
 17 Q Okay. Well, in his apartment, you had someone
 18 coming in and preparing his meals?
 19 A No. As I said, we buy food that he can either
 20 readily eat or...
 21 MR. BIGLEY: I can't eat in the restaurant.
 22 A ...(indiscernible) microwave, or...
 23 MR. BIGLEY: That's cool.
 24 A ...(indiscernible)...
 25 MR. BIGLEY: You gotta make sure I couldn't do

1 -- yeah, obtaining the food is one of his biggest
 2 obstacles, certainly. But preparing it also
 3 difficult for him. He buys food, or we purchase
 4 food for him, but it is readily eatable. And --
 5 and which requires very little, if any,
 6 preparation.
 7 You know, for example we would buy food in the
 8 deli counter that he could heat easily, it its
 9 own container, in a microwave oven. That's
 10 mostly what we buy.
 11 MR. BIGLEY: (Indiscernible).
 12 A Mr. Bigley could not, in my opinion, shop
 13 independently. He's not capable. That's
 14 actually one of the reasons we...
 15 MS. DICKSON: (Indiscernible).
 16 A ...attempted assisted living, to see if he
 17 would do better in a (indiscernible)...
 18 MR. BIGLEY: (Indiscernible).
 19 A ...but that isn't readily available.
 20 Q But, Mr. Young, it does sound like, when he's
 21 out (indiscernible), you have made arrangements
 22 for his grocery needs to be met?
 23 A We -- we...
 24 Q Either you go shopping with him, or you make
 25 other arrangements?

1 it.
 2 A ...we buy some foods that he would have to put
 3 in a pan, but that's usually the last...
 4 MR. BIGLEY: (indiscernible) -- a hundred
 5 dollars in my pocket or my hand.
 6 MS. DICKSON: (Indiscernible).
 7 MR. BIGLEY: Okay. Let him talk
 8 (indiscernible).
 9 MS. DICKSON: I just need to be able to hear
 10 his answers.
 11 THE COURT: Mr. Bigley, (indiscernible)...
 12 MR. BIGLEY: Okay. I -- I -- I'm sorry. I'm
 13 sorry.
 14 THE COURT: (Indiscernible) Mr. Bigley, this
 15 is Master Brown.
 16 MR. BIGLEY: I'm sorry.
 17 THE COURT: Yeah. I -- I know you're trying,
 18 but, you know, but try a little more (indiscernible).
 19 MR. BIGLEY: Okay. Okay. Okay. I'm sorry.
 20 I'm sorry, Your Honor.
 21 Q Okay. And, Mr. Young, I didn't hear the end
 22 of the answer. But, I mean, again, he can
 23 prepare the food. The problem is him going into
 24 a store with other people that presents problems?
 25 A It all presents problems. And the reality is

1 A We -- we -- we have to, because he -- he
 2 requires that.
 3 Q I have no...
 4 A The reason -- one of the reasons why this
 5 petition was filed was because we have been
 6 unable to do that for 10 days or more, and even
 7 with the assistance of his attorney, we were
 8 unable to...
 9 MR. BIGLEY: (Indiscernible)...
 10 A ...(indiscernible) provide for him that he had
 11 been claiming that he was (indiscernible).
 12 Q I have no further questions.
 13 THE COURT: Okay. Ms. Russo, do you have
 14 other questions?
 15 (Background conversation)
 16 MS. RUSSO: Not of Mr. Young.
 17 THE COURT: Okay. Mr. Young, thank you for
 18 your testimony. And let me ask -- I want to make sure.
 19 Ms. Russo and Ms. Dickson, is it all right
 20 with you, or do either of you want Mr. Young, as Mr.
 21 Bigley's guardian, to stay on the line?
 22 MS. RUSSO: He's free to, if he wishes, but he
 23 isn't required.
 24 THE COURT: Oh, okay. So, Mr. Young, do you
 25 want to stay on the line?

1 A Yes, please.
 2 THE COURT: Okay. Ms. Russo -- so I guess
 3 we're (indiscernible) -- Ms. Russo, your next witness?
 4 MS. RUSSO: I'll -- well, I guess I'd ask if
 5 the court would like to have Ms. Taylor give her
 6 visitor's report now, or if we should wait for the
 7 completion of...
 8 THE COURT: Well, I -- (indiscernible) you
 9 haven't had the doctor testify yet. I'd prefer it at
 10 least after the doctor's testimony.
 11 MS. RUSSO: Okay. Then I'll call Dr. Worrall.
 12 THE COURT: Okay. Dr. Worrall,
 13 (indiscernible), and I'll swear you in.
 14 WILLIAM WORRALL, M.D.
 15 called as a witness, being first duly sworn upon oath,
 16 testified as follows:
 17 (Oath administered)
 18 WITNESS: I do.
 19 THE COURT: Okay. So, Ms. Russo, if you want
 20 to go ahead and inquire.
 21 MS. RUSSO: Thank you.
 22 DIRECT EXAMINATION
 23 BY MS. RUSSO:
 24 Q Dr. Worrall, are you familiar with Mr. Bigley?
 25 A Yes, I am.

1 MS. DICKSON: (Indiscernible).
 2 MS. RUSSO: Excuse me.
 3 MS. DICKSON: Your Honor, I just -- generally,
 4 Dr. Worrall is qualified as an expert, and so I'm
 5 assuming Ms. Russo is going to ask to make that
 6 qualification. I have had numerous opportunities to
 7 cross examine Dr. Worrall, and have inquired into his
 8 qualifications, and I'm satisfied that his credentials
 9 meet that of an expert in the area of psychiatry.
 10 THE COURT: Okay. So, I'll qualify him as an
 11 expert in psychiatry.
 12 MS. RUSSO: (Indiscernible).
 13 MS. DICKSON: (Indiscernible).
 14 Upon Ms. Russo making the motion for
 15 (indiscernible).
 16 MS. RUSSO: Yes. No. I appreciate that.
 17 Q So, Dr. Worrall, you are familiar with Mr.
 18 Bigley?
 19 MR. BIGLEY: (Indiscernible).
 20 A Yes. I'm his psychiatrist here.
 21 Q Okay. And how long have you known Mr. Bigley?
 22 A Oh, off and on for 20 years. Mostly over the
 23 last six months, more (indiscernible).
 24 Q And what were Mr. Bigley's pro -- presenting
 25 problems on admission?

1 A Um, primarily very emotional and getting very,
 2 very upset, and loud, and scaring people with
 3 things that he would say, very disruptive, a
 4 delusional, paranoid. Those were his primary
 5 problems.
 6 He was brought to us on an ex parte, related
 7 to the issue of whether he was at risk because he
 8 couldn't get his groceries, and whether he was at
 9 risk because he was so disruptive that the police
 10 were escorting him off properties, and somebody
 11 might assault him, (indiscernible) speculation.
 12 Q And what is his current diagnosis?
 13 A Schizo-Affective disorder, bi-polar type.
 14 Q How does that manifest itself with him?
 15 A Um, paranoia, delusions, irrational thinking,
 16 poor judgment, quick emotional reactions,
 17 assaultive behavior. That's pretty much
 18 (indiscernible).
 19 Q And does that cause him to -- (indiscernible)
 20 it manifests itself? (Indiscernible) cause him
 21 to not be able to live safely in the community?
 22 A Um, well, I think that's a conclusion that I -
 23 - I can't make. I think that's why we're here
 24 today. I can tell you that he has severe
 25 impairment of judgement because of his delusions

1 and his paranoia thinking processes. He doesn't
 2 do what any rational person would do when
 3 presented with a set of options to take steps
 4 towards something that's in his interest.
 5 Whether or not he's gonna freeze to death, or
 6 starve to death, something like that, I really
 7 don't have reason to think that that is gonna
 8 happen.
 9 He did -- he lost three and a half pounds
 10 since he left the hospital January 3rd. That's
 11 not very much weight loss. He's a little thin to
 12 start with, but he's certainly not in any medical
 13 jeopardy because of the three pound weight loss.
 14 He hasn't been to an emergency room with an
 15 assault, because of his relative behavior. But
 16 under the existing statute, I felt comfortable
 17 filing for grave disability, because he is
 18 certainly suffering. He has very impaired
 19 thinking processes that cause him to process, but
 20 because of his mental illness. And that's the
 21 basis for filing the petition, of whether or not
 22 he's safe or not, I think is the question here.
 23 Q How -- you said he doesn't do what any
 24 rational person would do. (Indiscernible). Can
 25 you give an example of what you mean by that?

1 A Well, for example, I've gone on the unit and
2 encouraged him to try and be quiet. He wants to
3 get out of the hospital. So I worked with him to
4 encourage him to not be disruptive in the
5 courtroom, so that he could show that he has self
6 control. I've encouraged him to try to come up
7 with a plan for how he's gonna have food and
8 provide for his food, and negotiate some plan
9 with his guardian, who he needs to work with at
10 this point in time, for his food.

11 As you can see, I've made no progress with
12 that, from a counseling approach.

13 And on the unit, he did require two emergency
14 injections of Haldol and Ativan, which are
15 psychotropic medications that the staff gave him
16 under emergency conditions when he was creating
17 dangerous situations on the unit.

18 And it wasn't that he was assaulting anybody,
19 but he was in a state of mind where he was
20 screaming so loudly that it was upsetting other
21 patients who were becoming unstable, and the
22 staff felt that was an emergency.

23 The result of those two shots lasted one -- it
24 was two days of those. But he's actually a
25 little more stable today, and a little bit more

1 So we didn't get him to such a point that he
2 had such insight that he wanted to continue
3 medication, and he rapidly deteriorated. But I
4 firmly believe that that is because he's been
5 empowered by this new -- new attorney that he
6 has, and he really thinks he's driving the show.

7 Q And what -- have you discussed the -- the
8 medications you prescribed with Mr. Bigley?

9 A Yeah. You can't get anywhere talking to him
10 about it. He doesn't want it. He doesn't have
11 to talk to me about it. It -- you can't reason
12 with him at all about something like medication.
13 You can kinda reason with him about how he could
14 get to a point of having privileges
15 (indiscernible) smoking privileges, but he
16 doesn't even want to consider medication, so I
17 can't have that conversation with him.

18 Q And have you had that conversation, though, on
19 past admissions with him?

20 A Um, yes. And the longer he's been on
21 medication -- particularly if he's on a mood
22 stabilizer, like Depakote, the easier it is to
23 have those conversations. You know, for example,
24 he was on something that he had side effects
25 with, and he told me about it, and we reduced the

1 redirectable. A little bit calmer today than he
2 was when he got here. So he's certainly not as
3 bad as he was before he was brought to us because
4 of that two doses of medication.

5 Q And how would you intend to treat Mr. Bigley?

6 A Well, I would treat him the way I treated him
7 last time. With Risperdal and Seroquel and the
8 Depakote, and he had a remarkable improvement,
9 despite the fact that he was extremely difficult
10 to work with regarding realistic discharge
11 planning, because of the disruption that's
12 occurred with the intrusion of this new attorney.
13 Despite that, he was the calmest I've ever seen
14 him. You could sit in a room with him and talk
15 about difficult things, and he didn't get upset,
16 he didn't get loud, he didn't try to take over
17 the conversation. He was remarkably improved in
18 his self regulation of his emotional condition.
19 He was still delusional and paranoid, but he
20 wasn't upset by those delusions and driven by the
21 paranoia.

22 Despite him being in that grave condition,
23 that's the best I've ever seen him is on those
24 medications. He didn't take any medicine as soon
25 as he left the hospital.

1 dose, and he reported he felt better on it. But
2 the whole time that he was telling me this, when
3 he gets out he won't have to take medication
4 because his attorney told him he doesn't have to.

5 Q And beyond -- I guess, previous to this most
6 recent -- to the most recent prior admission, in
7 the past, had you been agreeable to taking
8 medication?

9 A Ah, I think it's almost always been
10 involuntary medications at the start. He's
11 almost always had to be committed, and
12 involuntary med hearings. And then when he's
13 gone more than 30 days, I think he -- he's
14 usually had to go to a 90-day commitment. I
15 don't think it's ever -- I can't recall a time
16 when he's voluntarily taken medication. But
17 after the first two to three weeks of taking
18 medication, he's usually pretty cooperative, even
19 though he won't consent, really, verbally,
20 voluntarily. He's usually pretty cooperative.
21 He doesn't, you know, have to be a shot, or that
22 kind of thing. He's willing to take pills. But
23 initially, very common that he has to have forced
24 medication.

25 Q And what would you -- you had stated that he's

<p style="text-align: right;">Page 34</p> <p>1 better able at -- or, he's not as upset or driven 2 by delusions when he's on the medication. What 3 other benefits did you expect to see from the 4 medications? 5 A Well, his judgment -- apart from the question 6 of getting rid of his guardian, and taking -- 7 getting rid of his medications, and then being 8 free to go wherever he wants, because he would 9 get his own income and not have to answer to a 10 guardian, which is all related to the 11 guardianship lawsuit he has going on. Apart from 12 that, his judgment was improved. And he -- he 13 would -- he was very good at being able to keep 14 his smoking privileges, for example, 15 (indiscernible). So he knew exactly what he 16 needed to do. How many rooms he had to go to. 17 What he could and couldn't do. And he followed - 18 - followed the guidelines and showed good 19 judgment and self control and be able to do that, 20 for example. 21 He -- a prior -- on the prior admission to 22 this -- to the past admission -- so, two 23 admissions ago -- he was much more workable 24 after he was on medication with regards to 25 discharge planning. You know, for example, you</p>	<p style="text-align: right;">Page 36</p> <p>1 A That... 2 MR. BIGLEY: (Indiscernible). 3 A That's the kind of stuff that quiets down when 4 he's on medication. 5 MR. BIGLEY: (Indiscernible). 6 A He doesn't talk like that, and he doesn't say, 7 "Well, I don't need to worry about food, because 8 the White House is gonna give me medicine and 9 give me food." He doesn't say that kind of stuff 10 when he's been (indiscernible). Instead, he 11 figures out a realistic plan for how he's going 12 to (indiscernible). But anymore you can't even 13 get that because now he has this psychosocial 14 force operating. Not just the mental illness, 15 but the psych-social force with the empowerment 16 he's getting from his recent litigation. So it's 17 really complicated, his treatment. 18 Q And does Mr. Bigley have any insight to his 19 mental illness? 20 A That's zero. He has no appreciation that he 21 has a mental illness. He has no insight that he 22 has a mental illness. He thinks that everything 23 that's happening to him is because everyone 24 around him is conspiring to ruin his life. 25 (Background conversation)</p>
<p style="text-align: right;">Page 35</p> <p>1 could talk with him to considering an assisted 2 living facility towards the end of the hospital 3 stay, that kind of improvement. But certainly 4 very workable with his guardian. The guardian 5 would come in and sit down, and the two of them 6 would have a good discussion. 7 He used to quiet down and listen to his 8 guardian, when he wouldn't listen to any of us. 9 And now he just -- just completely -- I mean, you 10 couldn't get more uncooperative, the way he is 11 with his guardian now. And that's a complication 12 that really is unrelated to medication. 13 The empowerment that he's gotten for -- from 14 his new litigation that he has going, has fed 15 into his grandiose delusional -- and, so, you'll 16 hear him talking in this hearing about the White 17 House, and this and that. He's got all kinds of 18 conspiracies, delusions, and it all gets fed into 19 by his -- by his new -- and he actually told me 20 right before the hearing that President Bush was 21 gonna make sure he gets food. That the White 22 House would get him his food. And that the White 23 House -- that President Bush gave him a jet 24 airplane, too. 25 MR. BIGLEY: (Indiscernible).</p>	<p style="text-align: right;">Page 37</p> <p>1 Q And have you tried to talk with him about why 2 (indiscernible)? 3 A Yes. But, if you can't have a reasonable 4 discussion about that at this time. He insists 5 that I went out and dragged him into the 6 hospital. That I went out and intentionally 7 pulled him off the street. That it was something 8 that I did to him. And doesn't have any insight 9 into the fact that his failure to cooperate was 10 ensuring that he had food, with his guardian. A 11 factor that led to an ex parte and 12 (indiscernible). 13 Q And when -- this last time in January, when 14 Mr. Bigley was most recently at API and left, and 15 he stopped taking the medicine. Did he -- do you 16 think he had the capacity to really make an 17 informed decision at that time? 18 A Um, not really. No. I -- I was -- the day we 19 discharged him -- a couple days before, I had to 20 decide if I was gonna petition for 180 day 21 commitment, because he was at the end of his 90 22 days -- having been out of the hospital. And, 23 because we did an early release before. And with 24 this new thing about "safely survive outside of 25 API," I just didn't really feel like I could take</p>

1 him to court, because he was being very
 2 reasonable about most thing. Yeah, he wouldn't
 3 cooperate with his guardian, but, it wasn't, kind
 4 of like, related around that. I thought he'd be
 5 safe outside of the hospital, and I didn't
 6 petition. But as far as the ability to make a
 7 competent decision about whether he should take
 8 medication or not No, I still think he was
 9 competent to decide that he shouldn't stop is
 10 medication, because he's so delusional, so
 11 paranoid, he doesn't have the capacity to make a
 12 reasonable decision without (indiscernible).
 13 Q And I think -- (indiscernible) -- Risperdal,
 14 Seroquel, Depakote -- those are all medications
 15 he's been on in the past?
 16 A (Indiscernible) we stabilized him with
 17 Risperdal shots -- every two weeks, Risperdal
 18 (indiscernible) injection. But it wasn't quite
 19 enough to help him with the psychosis, so oral
 20 Seroquel -- a second anti-psychotic helped to
 21 make the difference there. But then that pill
 22 wasn't enough to help him with the emotional
 23 instability that he had, pressured speech, and
 24 what we call labile affect, or just extremely
 25 emotional upset. And the Depakote, which is a

1 mood stabilizer, took care of that component of
 2 his symptoms. So on those three medications, he
 3 was about the best I've ever seen him.
 4 Q And did Mr. Bigley experience any side effects
 5 from those medications?
 6 A Not in the last two to three weeks of his
 7 stay. When we first started it, he had some side
 8 effects; tiredness. He had a little dizziness.
 9 He complained of some headaches.
 10 Interestingly, whenever he visited with his
 11 attorney, he would immediately go to the staff
 12 and report side effects. And, at no other time
 13 would he report side effects.
 14 The next say when I'd ask him about the side
 15 effects, he'd say he didn't have any. But when
 16 you first start these medications and you're
 17 increasing the dose, there are side effects that
 18 are commonly seen. He wasn't complaining of side
 19 effects when he left.
 20 He does tend to report that he can't have
 21 normal sex or normal sexual functions, and he was
 22 -- he was consistently complaining about that.
 23 But the benefits of the medication far outweigh
 24 that side effect.
 25 Q And are there (indiscernible) medication is

1 proposed as a standard of care of the community?
 2 A Yes, I think so. It's two antipsychotics
 3 which we use typi -- very commonly in what we
 4 call "treatment resisting cases." Where patients
 5 don't respond readily to one medication. And you
 6 try that medication -- one medication in a
 7 sufficient dose, and for a sufficient amount of
 8 time to make sure it's not gonna work.
 9 And then it's really very common in what we
 10 call a "refractory," or difficult to treat cases,
 11 to add a second antipsychotic medication.
 12 Q And are there any less intrusive treatments
 13 available?
 14 A Less than medication?
 15 Q Yes.
 16 A No. I think the way he was when he came here
 17 -- he's been off medication for several weeks,
 18 and that's -- that's the way Bill is when he's
 19 not on medication, and that's not affective.
 20 Psychotherapy wouldn't do anything. There's no
 21 psychotherapy approach. He's not gonna acquire
 22 social skills from social skills training groups,
 23 when he's argumentative and emotionally upset.
 24 MR. BIGLEY: (Indiscernible).
 25 A A residential -- if he was in a residential

1 housing therapeutic program that didn't use
 2 medication. I don't even think that would work,
 3 because he would get kicked out in a few days
 4 because of his disruptive behavior.
 5 (Background conversation)
 6 A He's very hard to tolerate, and the only thing
 7 that fixes that is medication.
 8 Q Do you believe that treatment will be a
 9 benefit to Mr. Bigley?
 10 A It would be, especially if there was a way to
 11 keep him on that treatment beyond the walls of t
 12 his hospital. And the last time we didn't have
 13 an early release because we were at the end of
 14 the 90 days, and I didn't feel like we could
 15 successfully argue that he was still gravely
 16 disabled when he had such improved conditions.
 17 But, ideally, we need to have an early release
 18 kind of situation where he can be brought back in
 19 for a very short stay, after he's only been off
 20 his meds for a very short amount of time, and the
 21 idea would be to kinda get him trained.
 22 "Gee, I guess I have to stay on my
 23 medication," and then he would eventually be able
 24 to go back to living in the community.
 25 The period of time that Steve Young described,

<p style="text-align: right;">Page 42</p> <p>1 when he was stable as an outpatient, was a period 2 of time when he was accepting the constraints he 3 was under. He was accepting that he had to go to 4 API and get a shot. He was accepting that he had 5 to work with a guardian. And he got by out there 6 in the community under those conditions, until he 7 missed two of his shots, as I've indicated, he 8 became too disruptive and upset and had to be 9 readmitted. 10 At that point in time, ah, we were trying to 11 get him to take different kinds of medications, 12 such as the Depakote. We couldn't get him to 13 cooperate with the oral medications... 14 SIDE B 15 A ...services from the community, such as living 16 in an assisted living facility and having a 17 mental health center work with him, where they 18 had case management services. But none of those 19 things worked out, as Steve Young mentioned. 20 They just didn't work out because even the 21 professional mental health staff at Anchorage 22 Community Mental Health Services would have case 23 managers that are trained to work with people 24 like Bill, they couldn't stay on working with 25 Bill. They didn't wanna help him.</p>	<p style="text-align: right;">Page 44</p> <p>1 A ...get all his money and fly to California, 2 and that he doesn't have to take medication, I'm 3 not sure what good that does. You know, I can 4 get him well while he's here, but I'm gonna need 5 to come back and get... 6 MR. BIGLEY: (Indiscernible). 7 A ...an early -- you know, go for a 90-day and 8 get an early release, so that we can assure that 9 this continues beyond these walls. 10 MR. BIGLEY: (Indiscernible). 11 THE COURT: (Indiscernible) Master Brown 12 again. I know you're trying (indiscernible), but I 13 really appreciate if you could be quiet, okay? 14 MS. RUSSO: Those are all the questions I have 15 for Dr. Worrall. 16 THE COURT: Okay. Ms. Dickson, do you want to 17 inquire? 18 MS. DICKSON: Yes. 19 CROSS EXAMINATION 20 BY MS. DICKSON: 21 Q Dr. Worrall, what kind side effects does 22 Depakote, Risperdal and Seroquel have? 23 A Oh, a huge list of side effects. 24 Q (Indiscernible) as to what's the most 25 concerned side effects?</p>
<p style="text-align: right;">Page 43</p> <p>1 And so, if it weren't for Steve Young, nobody 2 would be helping this guy out there. 3 So -- but that had got way worse when he 4 decided that he doesn't have to listen to Steve 5 Young, and he doesn't have to listen to people 6 who tell he has to take medication. That's the 7 complication with his new litigation. 8 Now it's almost impossible to treat him with 9 the situation he's under now. I don't know what 10 we're gonna do. 11 Q Okay. But do you think that if were committed 12 to API, and that the medication order was 13 granted... 14 MR. BIGLEY: (Indiscernible). 15 A ...is that treatment would be a benefit to 16 him? 17 MR. BIGLEY: (Indiscernible). 18 A I know that I could get him back into the same 19 good shape I had him in before I discharged him 20 on January (indiscernible). 21 MR. BIGLEY: (Indiscernible). 22 Q But, unfortunately, if he still thinks that he 23 can get rid of his guardian, and that he can get 24 all... 25 MR. BIGLEY: (Indiscernible).</p>	<p style="text-align: right;">Page 45</p> <p>1 MR. BIGLEY: (Indiscernible). 2 A Well, there's very rare things that of great 3 concern, because they -- they could be 4 potentially lethal, and something like, maybe one 5 in 10, one in 20,000 people could have side 6 effects, such as bone marrow problems, and we 7 don't make blood cells, or severe liver disease 8 could develop. They're extremely unlikely. 9 The common side effect, such as, for example, 10 sexual dysfunction, difficulty ejaculating, for 11 example. Which is a complaint that he's had. 12 Something that could be reversed with Viagra, for 13 example. 14 MR. BIGLEY: No, no, (indiscernible). 15 A The -- the common side effects of 16 constipation, dryness, dizziness, things like 17 that, are resolved with time. The side effects 18 go away by themselves when the patient gets used 19 to the medication. The body handles it better. 20 But you can get skin problems, stomach ache - 21 - just about anything that you can think of, the 22 medications have been accused of causing. 23 On the other hand... 24 MR. BIGLEY: (Indiscernible). 25 A Risperdal and (indiscernible) -- also have a</p>

1 neuroprotective effect on the brain, as they help
2 to prevent degenerative brain process that's
3 associated with schizophrenia, schizo-affective
4 disorder from proceeding further. And there's
5 been research showing that brain volume is
6 protected. That the loss of brain volume that
7 occurs over the course of the illness, stops
8 happening. In fact there's some increase in
9 brain volume that occurs. So there's a
10 protective effect, too.

11 But these aren't -- these aren't medications
12 to be taken lightly. They can only be used when
13 there's a severe problem with the (indiscernible)
14 treatment, and Mr. Bigley has that problem.

15 Q Dr. Worrall, you mentioned (indiscernible) the
16 protective coating in the brain that helps
17 prevent (indiscernible) some studies. Are those
18 studies conclusive? I mean, have you -- I mean,
19 when you're looking at the studies, how
20 (indiscernible) -- I guess "conclusive" is the
21 best -- better word. I mean, are you convinced
22 that that protective coating is there?

23 A It's not a coating. It's not like Teflon or
24 something.

25 Q Right.

1 A It's a protective effect. How it works is
2 unknown. But the studies were very conclusive.
3 Way beyond (indiscernible). The research in that
4 area is still early, but it is something on the
5 cutting edge of medication.

6 The older medications that he used to take,
7 Haldol, for example, Prolixin, that cause a lot
8 of tartar dyskinesia, and not have that
9 protective effect. The new medications,
10 Risperdal, Seroquel -- very unlikely to cause
11 tart dyskinesia. Much, much safer with regards
12 to the problems like that, and have a protective
13 effect on -- against the neuro-degenerative
14 process of schizophrenia.

15 Q Now, do the pharmaceutical companies who make
16 Risperdal, are they -- are they the ones who
17 conducted the studies?

18 A They don't even talk about it yet. I don't
19 think -- I don't think they're talking about it.
20 That's something -- I learned about it in
21 on-going medical education -- I don't know who
22 paid for the study, but (indiscernible)...

23 MR. BIGLEY: (Indiscernible).

24 A ...call me to tell me about it.

25 Q Have you ever talked to your colleague, Dr.

1 (indiscernible)?

2 A We've talked about research. There's another
3 area of research, like the (indiscernible)
4 studies that compare the old drug versus the new
5 drug. The old Haldol, for example, versus
6 Risperdal. And they looked at the patient's
7 quality of life, and how many times people came
8 into the hospital on the different medications.
9 And they had similar results. One was no better
10 than the other. Certainly, the Haldol was a lot
11 cheaper.

12 So what they didn't talk about, was the
13 neuroprotective effect, because that's a brand
14 new cutting edge thing. And they didn't talk
15 about the tartar dyskinesia differences in the
16 two groups.

17 Q Um...

18 A But, basically, those older drugs are the
19 cheaper, less expensive, more side effect prone
20 way to treat the same illness. And there's
21 evidence that the old cheaper medications pretty
22 much work just as well, but I wouldn't want to be
23 on them if I had schizophrenia. I would want to
24 be on the more expensive new drug.

25 Q Dr. Worrall, in the 20 some years that you've

1 known Mr. Bigley, has he ever agreed or
2 (indiscernible) his medication?

3 A Oh, he has -- towards the end of the hospital
4 stay he said, "Yeah, I'm gonna take my medicine
5 when I get out of here," but I didn't really
6 believe him.

7 MR. BIGLEY: (Indiscernible).

8 A But he has said that. He has said that the
9 medicines help him, a few times. But he has --
10 he has the tendency, like most people, to say
11 what you want to hear sometimes, if they think
12 it's gonna help them.

13 In general, no, he doesn't like the idea of
14 taking medications. He is only, for the most
15 part, taking it when he believed that he had to
16 take it.

17 Q I'm not sure that Mr. Bigley is
18 (indiscernible) in better shape than a lot of
19 (indiscernible) patients (indiscernible).

20 A Yes. Well, particularly given that he has a
21 guardian that goes out of his way to provide for
22 his needs.

23 MR. BIGLEY: (Indiscernible).

24 A We have -- I have a lot of patients with
25 guardians, and I -- I have never seen this kind

1 of effort from a guardian. So he has -- he has a
 2 lot of support, both financial and otherwise.
 3 MR. BIGLEY: (Indiscernible) money.
 4 Q (Indiscernible) Mr. Bigley (indiscernible)
 5 when he didn't take his medication
 6 (indiscernible) was able to function in the
 7 community, isn't that correct?
 8 A When he was out this time not taking
 9 medication? Well, he was escorted from a couple
 10 of properties by the police for being disruptive,
 11 but he wasn't arrested. He wasn't beaten up and
 12 taken to an emergency room.
 13 MR. BIGLEY: (Indiscernible).
 14 A But I don't think I would say that he was able
 15 to function in the community. I would say that
 16 he survived.
 17 Q Well, let me paraphrase that. Would he be
 18 able to survive in the community -- he may not be
 19 living healthy, but he's able to do that without
 20 being (indiscernible)?
 21 A Well, obviously, yes.
 22 MR. BIGLEY: (Indiscernible).
 23 THE COURT: Mr. Bigley, this is Master Brown
 24 again. I have to ask you to be quiet, because I have
 25 to be able to hear Dr. Worrall. Okay?

1 MR. BIGLEY: Okay. Sorry, sir. Okay.
 2 Q While he's on the unit, is he able to take
 3 care of his basic needs?
 4 A Yes.
 5 Q Hygiene? Is he able to eat?
 6 A Well, he doesn't do a whole lot of hygiene
 7 efforts, but, he -- oh, he's definitely taking
 8 care of his eating. He makes sure he gets double
 9 portions, and you hear about it if he doesn't get
 10 two of everything. He's definitely looking out
 11 for his dietary needs. And we don't have to
 12 assist him with walking, or bathroom function, or
 13 anything like that. He's not assaulted anybody.
 14 He doesn't -- he's upset people to the point that
 15 some people have wanted to assault him -- but
 16 they assault him. He survived on the unit.
 17 Q Dr. Worrall, I've asked you to
 18 (indiscernible), and I guess I'll just repeat it
 19 again. When you have someone like Mr. Bigley,
 20 who has a history of poor medication, and then
 21 when you gave him this revolving door, why
 22 (indiscernible) when it appears that he could
 23 survive in the community without the medication?
 24 A Well, I think the answer is, the way the law
 25 is set up. It's set up to deal with emergencies,

1 and the peoples mental conditions improve on
 2 mediation, and then they gradually deteriorate
 3 off medication, until they reach the point of
 4 having emergencies, and then all of a sudden you
 5 can treat them.
 6 Q What kind...
 7 A It's built into the law.
 8 Q What kind of damage (indiscernible) that are
 9 maybe occurring by having him on drugs for a
 10 couple months, and off drugs for a couple months.
 11 You put him on drugs for a couple months, and
 12 then he's of.
 13 A That's a good question. I don't think we know
 14 the answer to that. I'm not aware of studies. I
 15 don't think we have any scientific research on
 16 that topic. At least not that I'm aware of,
 17 having, say, five weeks of medication, and then
 18 going for five weeks without medication. I don't
 19 know what that does. The natural history of the
 20 illness. My best answer to that is what I know
 21 about psychiatry is that it's probably not
 22 harming him to be on medicine for five weeks, and
 23 off medicine for five weeks. It's probably
 24 better than being on medicine for 10 weeks.
 25 MR. BIGLEY: (Indiscernible)

1 Q And (indiscernible) studies on whether the
 2 (indiscernible)?
 3 A Gee, I'm not aware of research. You know,
 4 other than drug holidays. You know, where people
 5 stop medicine for a weekend, just to reduce the
 6 risk of (indiscernible). Stopping medicine for a
 7 month or something like that, and resuming it for
 8 a month or two, I'm not aware of any literature
 9 like that.
 10 Q And, Dr. Worrall, do you have any knowledge of
 11 whether Mr. Bigley has ever used substances that
 12 are illicit drugs or alcohol?
 13 A He has some history of that, but it's not been
 14 a recent problem.
 15 MR. BIGLEY: No, it's (indiscernible).
 16 A Really, compared to most patients, it's not
 17 much of a problem, especially in his recent
 18 history.
 19 Q Do you have any concerns -- and I'm going your
 20 word, but do you have any concern if Mr. Bigley
 21 was discharged today, whether or not he could
 22 continue to survive?
 23 A Well, do I have any concerns that he would
 24 continue to survive?
 25 Q Right.

1 A Well, yeah, I have some concerns, but I don't
2 have a conclusive opinion that he won't survive.
3 MR. BIGLEY: (Laughter) (Indiscernible).
4 Q And do you think that he can survive safely --
5 do you have any conclusory -- again, I'm going to
6 use your word -- concerns -- (indiscernible).
7 A No, I don't have any reason to think he can't
8 survive for a few weeks. Even if he did nothing
9 for the next few weeks, he's gonna survive for at
10 least two weeks. As long as he has housing, a
11 warm place to go to, he's gonna freeze to death.
12 We haven't had to admit him with hypothermia, or
13 such impaired judgment, that he sleeps outdoors
14 in winter. He doesn't drink a lot of alcohol.
15 He hasn't passed out in a snow bank. You know,
16 sometimes...
17 MR. BIGLEY: (Indiscernible).
18 A But there's a chance that he is gonna get
19 himself severely assaulted. I think the chance
20 is low because of his disruptive behavior.
21 2607-35
22 I think there's a better chance that he'll get
23 arrested because of his disruptive behavior in
24 public. Frightening -- concern he's gonna
25 frighten people. He could be pretty scary, but

1 it's really all talk. He's really not the kind
2 of guy that goes around hitting people. But I
3 don't have a firm opinion that he won't survive
4 outside of API if it was a reasonable period of
5 time, weeks or months or more. But under the
6 existing...
7 MR. BIGLEY: (Indiscernible).
8 A ...statute that applies to the petition I
9 filed, I think he's gravely disabled.
10 MS. DICKSON: Your Honor, I have no further
11 questions.
12 THE COURT: All right. Ms. Russo, do you have
13 any redirect?
14 MS. RUSSO: Just briefly, Your Honor.
15 Q Dr. Worrall, when Ms. Dickson was asking you
16 about the side effects, and you were talking
17 about the uncommon side effects of the
18 medications, such as the bone marrow issues, and
19 the liver disease. Are those things that could
20 be monitored or tested for?
21 MR. BIGLEY: (Indiscernible) five years from
22 now, because I (indiscernible).
23 A Yes.
24 THE COURT: Okay. Mr. Bigley, this is Master
25 Brown. I cannot hear what Ms. Russo is asking Dr.

1 Worrall, so you do have to be quiet. Okay.
2 MR. BIGLEY: Okay. I'm sorry.
3 THE COURT: Okay. Ms. Russo, could you repeat
4 the question.
5 MS. RUSSO: Thank you.
6 Q The question, Dr. Worrall, was the side
7 effects -- the severe side effects, such as the
8 bone marrow issues and the severe liver disease,
9 were those things that could be monitored?
10 A Yes. We do routine blood tests, a blood count
11 and liver function, as for example. He's refused
12 the blood work here an this admission already, so
13 we haven't been able to monitor that as yet. But
14 in the past he's not had any problems with liver
15 side effects or bone marrow side effects.
16 Q And the fact that he hasn't had a problem with
17 them in the past, does that indicate whether or
18 not he would have a problem with them in the
19 future?
20 A That makes it a lot less likely. Usually a
21 first six to eight weeks of the medication are
22 the riskiest times for those kinds of side
23 effects.
24 Q And then the less severe side effects, those
25 are all -- I think you stated that the sexual

1 dysfunction could be reversed with Viagra. Is
2 the constipation, dryness -- are those other
3 things that are fixed -- that either resolve with
4 time, or can be monitored, as well?
5 A Yeah. The thing that he was complaining about
6 before, tired, headache, light headed. They
7 resolve with time. The body -- the
8 (indiscernible) nervous system makes adjustments
9 to the medication and those things go away, and
10 they did go away.
11 The risks of these medications are far -- far
12 less than the -- the damage that's done to his
13 brain by not treating his mental illness. He's
14 gonna get worse, and worse, and worse every year.
15 He's gonna have worse and worse (indiscernible).
16 And he may reach the point when he does become a
17 danger to himself and others on a constant basis
18 now, instead of being verbally upset, and so
19 forth, he may be so much worse off, and he's
20 tried to hurt people because he thinks they're
21 gonna hurt him. Certainly his level of
22 functioning is going to go down over time if he's
23 not treated. And he suffers. I mean, if you
24 spend enough time with him, you can see that he
25 really believes what he's talking about, and

1 really, really suffers from his delusions.
 2 I mean, he came up to me the other day and
 3 with all the stress, because -- he told me that
 4 300 people a day are eaten alive in this
 5 country...
 6 MR. BIGLEY: It's true.
 7 A ...what are we gonna do about it? And he was
 8 always...
 9 MR. BIGLEY: (Indiscernible).
 10 A ...(indiscernible). Well, when he's on his
 11 medication, he's not suffering.
 12 MR. BIGLEY: I'm not (indiscernible).
 13 A And he certainly isn't suffering from side
 14 effects. So, if you compare the suffering from
 15 his illness with the little tiny risks of side
 16 effects, they're incomparable.
 17 Q And that was my next question, was when --
 18 with the -- even if he is cycling on and off
 19 medicine when he is at API and for a period of
 20 time after discharge, and then he stops taking
 21 the medicines. But the medication -- being on it
 22 even for a brief period of time, helps slow down
 23 the eventual deterioration of the brain, or?
 24 A Oh, I don't know about a brief period of time.
 25 I think the research was looking at six months.

1 Q Okay.
 2 A If he took medicine for a week, I wouldn't
 3 expect that would do much. And you really don't
 4 see much improvement in a week in symptoms.
 5 Q Uh-huh (affirmative).
 6 A Particular with Bill, it's like it takes
 7 longer and longer each time we treat him before
 8 the medicines take affect. I mean, beyond the
 9 order of one to two months, the stabilization of
 10 the brain would occur.
 11 Q If it were for a longer period of time, I
 12 guess, then, five weeks -- but for two or three
 13 months, then would that help stop the -- or, at
 14 least slow down the progression of the disease?
 15 A As I understand it from some of the newer
 16 research, yes. But even without that
 17 neuroprotective effect of preventing the future
 18 of degeneration, is a clear affect on
 19 (indiscernible) and -- and distress from the
 20 medication.
 21 Q And then let's say that Mr. Bigley had upset
 22 some people on the ward -- on the unit, to the
 23 point where they had wanted to assault him.
 24 MR. BIGLEY: (Indiscernible) all over the
 25 place. I didn't do nothin' wrong.

1 Q Why -- why -- were those assaults stopped by
 2 staff, or?
 3 A Um, well staff has to take -- well, two things
 4 had to happen. One, the staff had to take Mr.
 5 Bigley into the quiet room and give him an
 6 injection of...
 7 MR. BIGLEY: The staff (indiscernible) me up.
 8 A (Indiscernible) Haldol and Ativan.
 9 MR. BIGLEY: Did it on purpose.
 10 A Which is just like an eight hour acting
 11 medication just to calm him down.
 12 MR. BIGLEY: That did it.
 13 A To take him out of the situation.
 14 MR. BIGLEY: (Indiscernible).
 15 A To de-escalate the situation. And then they
 16 had to go to this other patient who wanted to
 17 assault Bill because he was appearing to the
 18 other patient that he was gonna assault staff.
 19 They were afraid that Bill might...
 20 MR. BIGLEY: I didn't (indiscernible).
 21 MS. RUSSO: Those were all my questions for
 22 Dr. Worrall.
 23 THE COURT: Okay. Ms. Dickson, any re-cross
 24 examination?
 25 MS. DICKSON: No, Your Honor.

1 THE COURT: Okay. Ms. Russo, any other
 2 witnesses?
 3 MS. RUSSO: Would the court want me to call
 4 Ms. Taylor, or should Ms. Taylor just be called by the
 5 court.
 6 MR. BIGLEY: (Indiscernible).
 7 THE COURT: Well, (indiscernible) -- I think
 8 just witnesses for the State?
 9 MS. RUSSO: Yeah. No, I don't have any other
 10 witnesses.
 11 THE COURT: Oh, okay.
 12 MR. BIGLEY: (Indiscernible).
 13 THE COURT: Ms. Taylor -- well, actually
 14 (indiscernible) to be honest, frankly, up to
 15 (indiscernible) sometimes about what (indiscernible)
 16 report, because it's dealing with the medication issue,
 17 and we haven't finished up with the commitment issue.
 18 I haven't made any findings about that. I mean, if the
 19 parties want to hear the visitor's report now, before I
 20 (indiscernible) any findings on commitment, you know,
 21 that's fine with me. I'm flexible on that.
 22 So, Ms. Russo, Ms. Dickson, any -- do you want
 23 to just hear from Ms. Taylor now, and then I'll make my
 24 findings.
 25 MS. RUSSO: Yes. Your Honor, actually, I

1 think it makes sense that we address the issue of
 2 commitment before we address medication.
 3 THE COURT: Okay.
 4 MS. RUSSO: So, can we briefly argue...
 5 MR. BIGLEY: I'll go home.
 6 THE COURT: Well, okay. Yeah. Before you
 7 argue, I'm gonna ask Ms. Dickson, did you want your
 8 client to testify?
 9 MS. DICKSON: So, did you want to testify
 10 (indiscernible)?
 11 MR. BIGLEY: (Indiscernible) started the damn
 12 thing. (indiscernible) the hell out'a me
 13 (indiscernible).
 14 MS. DICKSON: Your Honor, just briefly. I
 15 think that...
 16 Why don't you just (indiscernible).
 17 MR. BIGLEY: (indiscernible). Master Brown?
 18 THE COURT: Yes.
 19 MR. BIGLEY: Ah, I -- I got -- I got -- I got
 20 a two-bedroom apartment. I always live by myself. All
 21 my stuff is there. (Indiscernible). But nobody comes
 22 to my house. Nobody -- and, ah, Steve Young comes to
 23 the house, delivers groceries, but I don't him never
 24 around ever again. I have no medicine there. I -- I
 25 have no dope there, no drugs, no alcohol. I never did.

1 I don't talk to neighbors. I don't wanna be around
 2 nobody. I sit there and listen to music, or sing to
 3 it. Ah, I -- I -- I've -- I've done -- I've done so
 4 many good things. Um, I went to church. Talked to --
 5 to, ah, Father Gary. I told him a lot of things. To
 6 the Presbyterian Church. Lot of things
 7 (indiscernible). I (indiscernible) the Bible. You
 8 ruined me. Um, (indiscernible). I went over and over
 9 -- six years, (indiscernible) and stuff, what Steve
 10 Young did. What those two billings were. They
 11 wouldn't touch it. They paid people off. Okay? They
 12 got (indiscernible) to pay people off. Steve Young and
 13 Jim Parker.
 14 I went to court -- I went to court because I
 15 got thrown in there...
 16 MS. DICKSON: Let's just focus on...
 17 MR. BIGLEY: I wanna go home.
 18 (Indiscernible).
 19 MS. DICKSON: Yeah. Just tell him what you
 20 wanna do. You wanna go home.
 21 MR. BIGLEY: I -- I'm just tryin', like, to --
 22 um, you know...
 23 MS. DICKSON: Okay.
 24 MR. BIGLEY: I wanna go home. Drug free.
 25 Drug free.

1 THE COURT: Okay.
 2 MS. DICKSON: I have no further evidence, Your
 3 Honor.
 4 MR. BIGLEY: I'm fine. (Indiscernible) my
 5 brain.
 6 THE COURT: Okay. Mr. Bigley, thank you.
 7 Ms. Russo, I assume you don't have any
 8 questions, do you?
 9 MS. RUSSO: No, Your Honor.
 10 THE COURT: Okay. So, I guess next -- let me
 11 just hear -- the (indiscernible) remarks as to the
 12 commitment issue, and then if I recommend commitment,
 13 then we'll deal with the visitor's report, and then any
 14 further evidence concerning the medication issue.
 15 So, Ms. Russo, do you want to make closing
 16 remarks.
 17 (Background conversation)
 18 MS. RUSSO: Thank you, Your Honor. I believe
 19 that the court has heard testimony today that -- and
 20 through the testimony, there is clear and convincing
 21 evidence that Mr. Bigley is indeed mentally ill, and
 22 that he is gravely disabled. It's very -- given the
 23 recent (indiscernible)...
 24 MR. BIGLEY: (Indiscernible).
 25 MS. RUSSO: ...maybe caused some change in the

1 interpretation of what it means...
 2 MR. BIGLEY: (Indiscernible) about that.
 3 MS. RUSSO: ...to be gravely disabled.
 4 But Mr. Young testified about the
 5 extraordinary lengths that he had gone to -- or that
 6 he's arranged for insuring that Mr. Bigley is able to
 7 live safely outside of the community, and to make sure
 8 that he's able to meet his basic needs, such as with
 9 grocery shopping and such.
 10 And Dr. Worrall also testified that Mr. Bigley
 11 actually wasn't able to function. He -- he -- when
 12 (indiscernible), he wouldn't characterize Mr. Bigley as
 13 being able to function, but being able to survive.
 14 MR. BIGLEY: Who said that?
 15 MS. RUSSO: And I think that -- I think
 16 that...
 17 MR. BIGLEY: (Indiscernible).
 18 MS. RUSSO: ...to have to wait until somebody
 19 is on their death bed, to be able to commit them as
 20 being gravely disabled, would be an injustice to them.
 21 Dr. Worrall testified about how Mr. Bigley
 22 really does suffer from his...
 23 MR. BIGLEY: (Indiscernible) knows.
 24 MS. RUSSO: ...illness, and that it does cause
 25 him great consternation and...

<p style="text-align: right;">Page 66</p> <p>1 MR. BIGLEY: Well, that's because 2 (indiscernible). 3 MS. RUSSO: ...he's severely affected by that, 4 and... 5 MR. BIGLEY: (Indiscernible). 6 MS. RUSSO: ...his ability to make rational 7 decisions... 8 MR. BIGLEY: (Indiscernible). 9 MS. RUSSO: ...to affect this -- that would 10 affect his ability to live outside is compromised by 11 that element. 12 MR. BIGLEY: (Indiscernible) that stuff, too. 13 MS. RUSSO: And that treatment at API would be 14 a benefit to Mr. Bigley, and that it would be able to 15 at least -- well, that it would a benefit to him. 16 MR. BIGLEY: I just wanna be left alone. 17 THE COURT: Okay. Ah, thank you. 18 Ms. Dickson? 19 MS. DICKSON: Yes, Your Honor. At this time 20 we'd ask that you dismiss the petition and release Mr. 21 Bigley. 22 MR. BIGLEY: Please. 23 MS. DICKSON: I think Your Honor is aware that 24 the supreme court has really scrutinized these 25 commitment hearings, and, you know -- and -- and,</p>	<p style="text-align: right;">Page 68</p> <p>1 he doesn't survive, maybe, perhaps to the level we 2 would want to see. And maybe he's not living to the 3 potential that he could if he was on medication, as 4 suggested by Dr. Worrall. But he is able to do it. 5 That is how he wants to live. That is his choice. He 6 doesn't want to take medication. He doesn't want to be 7 committed into API. 8 He does have financial resources to be able to 9 maintain an apartment, so the risk of him freezing to 10 death is minimal. He does have a guardian who is 11 assisting him. And while that relationship right now 12 is not at its best, and it's uncooperative, it does 13 provide some level of safety that allows him to live 14 out in the community. 15 And Dr. Worrall testified that between the 16 period of time since his last discharge... 17 MR. BIGLEY: (Indiscernible). 18 MS. DICKSON: ...that he was able to do it. 19 So, Your Honor, I think if you strictly 20 construe grave disability, in light of a person's 21 fundamental right to liberty, I think we would ask that 22 you dismiss the petition and not commit Mr. Bigley 23 today. 24 MR. BIGLEY: I can't have (indiscernible) 25 because I'm mentally ill.</p>
<p style="text-align: right;">Page 67</p> <p>1 essentially, the court needs to understand that 2 committing someone to API takes away their liberty. It 3 takes away their freedom. I mean, it's not a 4 treatment. Anyway, it does provide treatment. It does 5 deprive a person of their liberty. And the court has 6 to consider a person's liberty as being very important, 7 and that that liberty be only taken away when 8 absolutely necessary. 9 And I think when you look at the supreme court 10 decision, they are strictly construing these statutes 11 to protect an individual's right to liberty. 12 Ms. Russo cited Weatherhorn v. API, which is a 13 recent decision, 2007. And in that decision they 14 specifically construed the definition of "gravely 15 disabled." And, you know, part of the definition was - 16 - you know, when you talk about the second part of 17 grave disability, which I'm assuming is what Dr. 18 Worrall is relying on when he testifies to grave 19 disability. When you talk about the stress, the level 20 of distress that's necessary is significant. And, 21 essentially the question comes down to whether someone 22 can live safely outside of the controlled environment. 23 Mr. Bigley has been living outside API, on his 24 own, several years, and -- and why he's been in API, in 25 and out -- when he is out, he is able to survive. And</p>	<p style="text-align: right;">Page 69</p> <p>1 THE COURT: All right. Thank you. 2 All right. At this time I'll make my findings 3 on... 4 MR. BIGLEY: Please. 5 THE COURT: ...the issue concerning the -- the 6 commitment issue in the Petition for 30 Day Commitment. 7 I'll find that, first of all, the evidence is 8 clear and convincing that Mr. Bigley is suffering from 9 a mental illness, as testified to by Dr. Worrall. The 10 diagnosis was affective disorder bi-polar type. 11 (Background conversation) 12 Both Dr. Worrall's and Mr. Young's testimony 13 is clear and convincing that Mr. Bigley has been 14 suffering from paranoid delusions, irrational thinking. 15 He's had severe emotional reactions. Dr. Worrall 16 testified that Mr. Bigley has severe impaired judgment. 17 That he does irrational things. 18 MR. BIGLEY: Can't do that. 19 THE COURT: And this is... 20 (Background conversation) 21 THE COURT: ...-- he is unable to perceive or 22 understand reality that he is -- Dr. Worrall testified 23 -- used the term, Mr. Bigley is gravely disabled. And 24 that's backed up very clearly (indiscernible) by Mr. 25 Young's testimony as to the extraordinary lengths that</p>

1 the guardian has tried to accommodate Mr. Bigley, but,
2 nonetheless, Mr. Bigley still is jeopardizing his own
3 well being.

4 Mr. Young testified that Mr. Bigley is unable
5 to do his own shopping for food. That the guardian has
6 had to go to the store with him. Even at the store
7 there are -- what I would refer to as extraordinary
8 measures to avoid other shoppers from -- from being
9 accosted either verbally by Mr. Bigley, which would
10 cause additional problems. That Mr. Young also
11 testified how Mr. Bigley has been threatening at Mr.
12 Young's office.

13 MR. BIGLEY: That's right.

14 THE COURT: Mr. Young's testimony is
15 convincing...

16 MR. BIGLEY: (Indiscernible).

17 THE COURT: ...that he is unable to maintain
18 himself...

19 (Background conversation)

20 THE COURT: ...without the strict assistance
21 of the -- of his guardian. While Mr. Bigley may have
22 financial resources to pay for an apartment and for a
23 food allowance, he still does not have the independent
24 ability to manage himself and his affairs, and it's to
25 the point where it (indiscernible) he would be unable

1 days. There is no less restrictive place...

2 MR. BIGLEY: (Indiscernible). I trusted you.

3 THE COURT: ...(indiscernible) at this time.

4 And, so...

5 MR. BIGLEY: You wanna dope me up.

6 THE COURT: ...with that, I'll deal next with
7 the medication issue. And, first I...

8 MR. BIGLEY: I'm goin' out'a state -- I have a
9 right to leave state right now!

10 THE COURT: Listen, Mr. Bigley, I know
11 you're...

12 MR. BIGLEY: You stay in this place and get
13 doped up! I (indiscernible) all of my life!

14 THE COURT: Mr. Bigley, please be quiet. I
15 know you're doing...

16 MR. BIGLEY: No. (Indiscernible) is gonna
17 find out!

18 THE COURT: Okay.

19 Ms. Russo, do you have any additional witness
20 before we hear...

21 MR. BIGLEY: I don't wanna be put in a cage in
22 this shit hole!

23 THE COURT: ...from Ms. Taylor?

24 MS. RUSSO: No. I would just...

25 MR. BIGLEY: (Indiscernible).

1 to obtain his own necessary food and other necessities,
2 and would -- his well being would diminish.

3 And I have had in front of me the recent case
4 -- the Weatherhorn case, and I've been looking at this
5 language about what the supreme court is requiring as
6 to -- grave disability requires that there be a level
7 of incapacity so substantial that the respondent is
8 incapable of surviving faithfully in freedom. And I
9 don't have any doubt that that standard is met,
10 because, as Mr. Young's and Dr. Worrall's testimony
11 shows that Mr. Bigley has severe delusions, paranoia,
12 and is prone to cause problems with others. And that I
13 don't -- while he may have an apartment and funds, I do
14 not believe he can survive safely for long outside of
15 the hospital setting, which is highly structured
16 environment. So, while he may be eating well and doing
17 his (indiscernible) in the hospital, that's because
18 it's a highly structured environment, which he needs.
19 And to me it's clear that he really is severely gravely
20 disabled because there would be a severe and a
21 substantial deterioration of his ability to function
22 independently, which is the statutory standard, if he
23 was out on his own.

24 So, for all of these reasons I am going to
25 find that he should be committed to API for up to 30

1 MS. RUSSO: ...rely on the prior testimony of
2 Dr. Worrall and Mr. Young.

3 MR. BIGLEY: (Indiscernible).

4 THE COURT: Okay.

5 MR. BIGLEY: (Indiscernible) President Bush.
6 You think I'm lyin' to ya'?

7 THE COURT: Okay. Ms. Taylor...

8 MR. BIGLEY: (Indiscernible) now too.

9 THE COURT: Mr. Bigley, if you can't quiet
10 down, I'm going to have to ask that you be taken...

11 MR. BIGLEY: I just wanna go home.

12 THE COURT: Okay. So if you're quiet I can --
13 you can stay in the courtroom. But if you're not, I
14 have to have -- you're gonna have to leave the
15 courtroom. Okay?

16 MR. BIGLEY: (Indiscernible).

17 THE COURT: Ms. Dickson, does he understand
18 that?

19 MS. DICKSON: I think so, Your Honor.

20 THE COURT: Okay.

21 Ms. Taylor, I'm gonna swear you in.

22 DEBORAH TAYLOR

23 called as a witness, being first duly sworn upon oath,
24 testified as follows:

25 (Oath administered)

1 MS. TAYLOR: Yes, sir, I do.
 2 THE COURT: And, just state your name for the
 3 record?
 4 MS. TAYLOR: Deborah Taylor, court visitor.
 5 THE COURT: Okay. So, ah, Ms. Taylor if you
 6 wanna go ahead with your visitor's report.
 7 MS. TAYLOR: Certainly. I observed Mr. Bigley
 8 the end of December, before he was discharged from API.
 9 He was calm. He was actually very helpful to me. He
 10 was very pleasant.
 11 I then met with Mr. Bigley last Friday, and it
 12 was the polar opposite. He was very agitated, he was
 13 yelling, he was making very inappropriate comments. He
 14 told me he had a 35 billion dollar jet that...
 15 MR. BIGLEY: Pick it up.
 16 MS. TAYLOR: ...within Washington, D.C. He
 17 told me that he had been on the phone with President
 18 Bush.
 19 MR. BIGLEY: (Indiscernible).
 20 MS. TAYLOR: His agitation was such that I
 21 could not redirect him to the point of asking the
 22 questions that I needed to ask.
 23 After 45 minutes with Mr. Bigley, I left the
 24 room in which we were conducting our meeting.
 25 MR. BIGLEY: (Indiscernible).

1 MS. TAYLOR: I then met with Mr. Bigley this
 2 morning, and while he was much calmer than he was on
 3 Friday, he still was having the same type of delusions.
 4 He told me that he had been speaking with God.
 5 MR. BIGLEY: (Indiscernible). There's nothin'
 6 wrong with that. (Indiscernible), do you pray?
 7 MS. TAYLOR: And that he was definitely going
 8 to go home.
 9 I have not been able to get Mr. Bigley to
 10 answer our medication -- I mean, my questions about
 11 whether he understands that he has a mental illness.
 12 Whether he has any understanding...
 13 MR. BIGLEY: (Indiscernible) illness?
 14 MS. TAYLOR: I have not been able to talk --
 15 talk...
 16 MR. BIGLEY: Do you have mental illness?
 17 Anybody have mental illness? Cured me of it.
 18 (Indiscernible) mental illness? (Indiscernible)...
 19 THE COURT: Okay, Mr. Bigley. This is Master
 20 Brown. And I'm only gonna give you one more chance.
 21 MR. BIGLEY: I am fightin' for my life in
 22 here.
 23 THE COURT: Mr. Bigley, please try to be
 24 quiet. Okay? Thank you.
 25 Go ahead, Ms. Taylor.

1 MS. TAYLOR: Thank you, sir.
 2 Um, and, you know, I have not been able to get
 3 him to discuss with me if he has any understanding of
 4 side effects.
 5 MR. BIGLEY: Ahhh, (indiscernible) shit.
 6 MS. TAYLOR: I have reviewed the chart for Mr.
 7 Bigley. I have talked with Dr. Worrall; I talked to
 8 staff on the floor. And it's my opinion that,...
 9 MR. BIGLEY: (Indiscernible).
 10 MS. TAYLOR: ...based upon chart review, based
 11 upon my personal interactions with Mr. Bigley, both
 12 from the end of December until now, that he would
 13 benefit from having some type of medication that would
 14 help him become more calm and help him, hopefully, try
 15 and come up with an appropriate discharge
 16 (indiscernible).
 17 MR. BIGLEY: I won't talk to nobody -- do
 18 nothin' to nobody anymore. (Indiscernible) my brain.
 19 THE COURT: Ms. Taylor, anything else?
 20 MS. TAYLOR: No, sir.
 21 THE COURT: Okay. Ms. Russo, do you have any
 22 questions?
 23 EXAMINATION
 24 BY MS. RUSSO:
 25 Q Ms. Taylor, were you able to make inquiry

1 about any kind advanced directive or anything?
 2 MR. BIGLEY: If you give medicine, I won't
 3 talk to nobody anymore. Not a livin' soul.
 4 A Not for Mr. Bigley.
 5 MR. BIGLEY: I don't want no meds or nothin'.
 6 Go home.
 7 Q In your review of the chart, was there
 8 anything?
 9 A I didn't notice anything.
 10 Q Those are all my questions.
 11 THE COURT: All right.
 12 Ms. Dickson, questions?
 13 EXAMINATION
 14 BY MS. DICKSON:
 15 Q Yeah. Did Mr. Bigley make it clear to you
 16 that he didn't want medications?
 17 A In all honesty, I had difficulty understanding
 18 what Mr. Bigley wanted, other than to leave.
 19 MR. BIGLEY: I got a million dollar jet.
 20 Q As the court visitor, and knowing Mr. Bigley's
 21 history, any -- do you think this is a futile
 22 process that we force medication on him now,
 23 (indiscernible) he's appropriately discharged him
 24 to stop?
 25 MR. BIGLEY: (Indiscernible).

1 Q (Indiscernible) take his medication?
 2 A If I find that (indiscernible) Mr. Bigley, as
 3 well as everybody else (indiscernible).
 4 MR. BIGLEY: (Indiscernible) in Anchorage?
 5 A But, I think that...
 6 MR. BIGLEY: Got files.
 7 A ...that Mr. Bigley needs to have the
 8 opportunity to...
 9 MR. BIGLEY: (Indiscernible).
 10 A ...participate as much as...
 11 MR. BIGLEY: No.
 12 A ...he can...
 13 MR. BIGLEY: No. No.
 14 A ...in some type of...
 15 MR. BIGLEY: I don't talk to nobody.
 16 A ...a plan...
 17 MR. BIGLEY: I don't want to.
 18 A ...so that hopefully, at some point...
 19 MR. BIGLEY: (Indiscernible).
 20 A ...he will, as he has demonstrated in the
 21 past, be...
 22 MR. BIGLEY: (indiscernible) with pills? You
 23 have.
 24 A ...to have, um, the medication that he needs.
 25 MR. BIGLEY: Yeah. (Indiscernible) some

1 Tryin'...
 2 MS. RUSSO: It...
 3 MR. BIGLEY: (Indiscernible)...
 4 MS. RUSSO: The evidence before the court is
 5 that this is -- the medications which are prescribed
 6 are really the only way to be able to enable...
 7 MR. BIGLEY: (Indiscernible) take me out.
 8 MS. RUSSO: ...Mr. Bigley to be able to -- as
 9 Ms. Taylor stated (indiscernible)...
 10 MR. BIGLEY: (Indiscernible).
 11 MS. RUSSO: ...participate as much as he could
 12 in a treatment plan. So we would ask that you grant
 13 the petition.
 14 MR. BIGLEY: (Indiscernible) out of state.
 15 Out of state. (Indiscernible) find out.
 16 THE COURT: I'm sorry, Ms. Russo. Are you
 17 done?
 18 MS. RUSSO: Yes, Your Honor.
 19 THE COURT: Okay. So, Ms. Dickson?
 20 MS. DICKSON: Yes, Your Honor. We would ask
 21 that you deny the petition for medication. Mr. Bigley
 22 doesn't want to take medication.
 23 MR. BIGLEY: I just go home...
 24 MS. DICKSON: He has been fairly through the
 25 years about his position...

1 pills. (indiscernible) get a junky.
 2 MS. DICKSON: I have no further questions,
 3 Your Honor.
 4 THE COURT: Ms. Russo, any other questions?
 5 MS. RUSSO: No, Your Honor.
 6 THE COURT: So, closing remarks, Ms. Russo,
 7 about the medication issue?
 8 MS. RUSSO: Thank you, Your Honor. I...
 9 MR. BIGLEY: Didn't matter. Don't dope me up.
 10 I won't to talk to nobody, though. Just wait. Wait
 11 'til you find out.
 12 MS. RUSSO: I believe that you have clear and
 13 convincing testimony that Mr. Bigley is currently
 14 unable to -- to provide informed...
 15 MR. BIGLEY: (Indiscernible) around them
 16 anymore.
 17 MS. RUSSO: ...consent to the medication.
 18 That there has been evidence that Mr. Bigley has been
 19 on these medications in the past, and...
 20 MR. BIGLEY: (indiscernible) started out
 21 first.
 22 MS. RUSSO: ...has experienced positive
 23 results from these medications. And hopefully he would
 24 be able to remain on them longer this time.
 25 MR. BIGLEY: Tryin' to drain me, man.

1 MR. BIGLEY: Yeah.
 2 MS. DICKSON: ...regarding medication. Um,
 3 you know, I think the court has to look -- especially
 4 under the (indiscernible) Myers case, and may
 5 (indiscernible) judgment, just the futility of this.
 6 Dr. Worrall testified regarding, you know,
 7 years of experience with Mr. Bigley. He doesn't take
 8 the medication when he gets out. There's really no
 9 clear answer what the stopping and starting of
 10 medication...
 11 MR. BIGLEY: Do you take medication?
 12 MS. DICKSON: Mr. Bigley, let me finish.
 13 ...will do for Mr. Bigley on a long term...
 14 MR. BIGLEY: (Indiscernible).
 15 MS. DICKSON: And I think, also, what's most
 16 important,...
 17 MR. BIGLEY: Throw you in here.
 18 MS. DICKSON: ...when he was discharged in
 19 January of this year, and I think Dr. Worrall...
 20 MR. BIGLEY: (Indiscernible).
 21 MS. DICKSON: And I'm relying on my notes, so
 22 I may not be completely accurate, but I think -- I
 23 think Dr. Worrall said that was the best he's ever seen
 24 him, in January, when he was on medication. And
 25 despite Mr. Bigley being the best that he's ever been,

<p style="text-align: right;">Page 82</p> <p>1 he made the decision to stop medication when he was 2 released from custody. 3 So his position regarding that medication has 4 been consistent. He doesn't want... 5 MR. BIGLEY: (Indiscernible). 6 MS. DICKSON: ...to take medication, and we 7 would ask that you deny the petition allowing the 8 hospital to force medicate him. 9 MR. BIGLEY: (Indiscernible). 10 THE COURT: All right. 11 MR. BIGLEY: (Indiscernible). 12 THE COURT: All right. So I'll make my 13 findings concerning the medication petition. And the 14 evidence... 15 MR. BIGLEY: (Indiscernible). 16 THE COURT: ...is clear and convincing that 17 Mr. Bigley has a mental illness, and the evidence is 18 clear and convincing, he does not understand or 19 appreciate that he has the mental illness, and 20 (indiscernible). The evidence is clear and convincing, 21 he is unable to give an informed consent... 22 MR. BIGLEY: Out of state. 23 THE COURT: ...to have an appropriate course 24 of treatment, as recommended by the doctors, the 25 different medications.</p>	<p style="text-align: right;">Page 84</p> <p>1 (indiscernible) force medicate anybody. 2 THE COURT: (Indiscernible). 3 MR. BIGLEY: Watch it! It's gonna get'cha! 4 THE COURT: (Indiscernible)... 5 MR. BIGLEY: (Indiscernible). 6 THE COURT: And if there's anything in the 7 administration, all I can see would be -- if there are 8 shots. But, again, the beneficial effects... 9 MR. BIGLEY: (Indiscernible) do that. 10 THE COURT: ...not only for him, but also to 11 anyone around him, far outweigh the momentary pain. 12 And, so I would find that the evidence is clear and 13 convincing that this proposed treatment -- the use of 14 medications -- (indiscernible), and there is no 15 (indiscernible) an intrusive alternative... 16 MR. BIGLEY: (Indiscernible) 17 THE COURT: So I will rec... 18 (Tape off) (Tape on) 19 UNIDENTIFIED MALE: Thank you, Your Honor. 20 MR. BIGLEY: (Indiscernible). 21 THE COURT: So this will end the phone call, 22 and, ah... 23 MR. BIGLEY: (Indiscernible). 24 THE COURT: ...the hearing, okay? 25 MR. BIGLEY: Go fuck off!</p>
<p style="text-align: right;">Page 83</p> <p>1 MR. BIGLEY: I wanna go home. 2 THE COURT: (Indiscernible) Mr. Bigley made a 3 statement -- well, commented in the past that -- 4 expressed a reliable manner... 5 MR. BIGLEY: (Indiscernible) he knows. 6 THE COURT: ...(indiscernible) his treatment 7 with psychotropic medication. 8 (Background conversation) 9 THE COURT: I note that the doctor's testimony 10 shows that not only Mr. Bigley's (indiscernible) mental 11 illness, (indiscernible) that the medications will 12 probably have some slight side effects (indiscernible) 13 beneficial effects. That there's nothing indicating 14 the -- that these (indiscernible) medications are in 15 the nature of experimental. They appear to be -- these 16 medication are accepted by the... 17 MR. BIGLEY: (Indiscernible). 18 THE COURT: (Indiscernible)... 19 MR. BIGLEY: (Indiscernible) medications. 20 Okay? It's a law. 21 THE COURT: Well, there's certainly -- to a 22 certain extent (indiscernible)... 23 MR. BIGLEY: Be independent, Judge! 24 THE COURT: ...Mr.... 25 MR. BIGLEY: Be independent, Judge!</p>	<p style="text-align: right;">Page 85</p> <p>1 THE COURT: Thank you. Good bye. 2 (Background conversation) 3 UNIDENTIFIED FEMALE: Off -- off record. 4 ***END*** 5 / 6 / 7 / 8 / 9 / 10 / 11 / 12 / 13 / 14 / 15 / 16 / 17 / 18 / 19 / 20 / 21 / 22 / 23 / 24 / 25 /</p>

CERTIFICATE

SUPERIOR COURT)
) SS.
STATE OF ALASKA)

I, Georgi Ann Haynes, Certified Professional
Court Reporter for the Third Judicial District, State
of Alaska and verbatim reporter for H & M Court
Reporting, Inc., hereby certify:

That the foregoing transcript is a
transcription of testimony of said proceedings to the
best of my ability, prepared from extreme poor quality
tapes recorded by someone other than H & M Court
Reporting, therefore "indiscernible" portions may
appear in the transcript;

I am not a relative, or employee, or
attorney, or counsel of any of the parties, nor am I
financially interested in this action.

IN WITNESS WHEREOF, I have hereunto set my
hand and affixed my seal this 29th day of March, 2007.

Notary Public in and for Alaska
My commission expires: 10/05/2007

/

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

EMERGENCY

R E C E I V E D

Law Project for Psychiatric Rights
406 G Street, Suite 206
Anchorage, AK 99501
907-274-7686 phone
907-274-9493 fax

SEP 10 2007

Clerk of Appellate Courts
Anchorage, Alaska

Attorney for Applicant

IN THE SUPREME COURT FOR THE STATE OF ALASKA

WILLIAM S. B BIGLEY
Applicant,

vs.

WILLIAM A. WORRAL, M.D., and
THE ALASKA PSYCHIATRIC INSTITUTE
Respondents

Supreme Ct. No. 5-12851

Trial Court Case No. 3AN 07-1064 P/S

EMERGENCY MOTION FOR INJUNCTIVE RELIEF

COMES NOW, WILLIAM S. BIGLEY, Applicant (Mr. Bigley), and pursuant to Appellate Rule 504, moves for an immediate injunction against Respondents William A. Worrall, MD (Dr. Worrall), and the Alaska Psychiatric Institute (API) from any more forced psychiatric drugging¹ of Mr. Bigley without court authorization and a meaningful opportunity to seek review before it recommences.

¹ Respondent uses the term "Forced Psychiatric Druggings," to reinforce this Court's acknowledgment in *Myers v. Alaska Psychiatric Institute*, 138 P.3d 238, 242 (Alaska Cont.

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.

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

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


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

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

1
2 questionable and it is completely inappropriate to again include them in the pleadings
3 filed today.

4 DATED: September 10, 2007

5 TALIS J. COLBERG
6 ATTORNEY GENERAL

7 By: 
8 Elizabeth Russo
9 Assistant Attorney General
10 Alaska Bar No. 0311064
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24
25
26

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