

IN THE SUPREME COURT FOR THE STATE OF ALASKA

ROSLYN WETHERHORN,)	
)	
Appellant,)	Supreme Court No. S-11939
)	
vs.)	
)	
ALASKA PSYCHIATRIC INSTITUTE,)	Trial Court Case No. 3AN 05-459 PR
)	
Appellee.)	
_____)	

APPEAL FROM THE SUPERIOR COURT
THIRD JUDICIAL DISTRICT AT ANCHORAGE
THE HONORABLE JOHN SUDDUCK, PRESIDING

EXCERPT OF RECORD

Volume 1 of 1

James B. Gottstein (7811100)
Law Project for Psychiatric Rights,
Inc.
406 G Street, Suite 206
Anchorage, Alaska
(907) 274-7686

Attorney for Appellant
Roslyn Wetherhorn

Filed in the Supreme Court of
the State of Alaska, this _____
day of _____, 2005

Marilyn May, Clerk

By: _____
Deputy Clerk

Exhibit A

EXCERPT OF RECORD

Peace Officer/Mentla Health Professional
Application for Examination, April 4, 2005 1

Petition for Initiation of Involuntary Commitment, April 5, 2005 2

Ex Parte Order (Temporary Custody for Emergency Examination/
Treatment), April 5, 2005..... 4

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PEACE OFFICER/MENTAL HEALTH PROFESSIONAL APPLICATION FOR EXAMINATION

(AS 47.30.705)

Name of Potential Patient: Wether horn, Roslyn

Date and Time: 4-4-05 2210

Age: 59 Sex: F Race: C Marital Status: _____

I hereby certify that probable cause exists under AS 47.30.705 to believe that the above-named individual is mentally ill and is:

- gravely disabled
- likely to cause serious harm to self others

of such immediate nature that considerations of safety do not allow initiation of involuntary commitment procedures under AS 47.30.700.

Pertinent Information: Flight of ideas

- I am a:
- peace officer
 - psychiatrist/physician currently licensed to practice in the State of Alaska or employed by the federal government.
 - clinical psychologist licensed by the State Board of Psychologists and Psychological Examiners.

M Lee M.D

 Signature of Peace Officer or
 Mental Health Professional

M LEE

 Print Name

7468620

 Daytime Telephone Number

15 E Dahlia Pal AK 99649

 Mailing Address City State Zip

NOTE: Pursuant to AS 47.30.705, any police officer or mental health professional requesting an emergency evaluation must complete an application for examination of the person in custody and be interviewed by a mental health professional at the evaluating facility.

APR 6 2005

Clerk of the Trial Courts
By N ;Deputy

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
AT Anchorage

In the Matter of the Necessity)
for the Hospitalization of:)
Wetherhorn Roslyn)
Respondent.)
ROSLYN WETHERHORN)

Case No. 3 ANOS 459 PR
PETITION FOR INITIATION
OF INVOLUNTARY COMMITMENT

John W. McEwan, petitioner alleges that the
respondent is mentally ill and as a result of that condition is
gravely disabled or presents a likelihood of causing serious harm
to himself/herself or others.

Petitioner respectfully requests the court to conduct or to
arrange for a screening investigation of the respondent as
provided in AS 47.30.700.

If this investigation results in a determination that the
respondent is mentally ill and as a result of that condition
is gravely disabled or presents a likelihood of causing
serious harm to himself/herself or others, the petitioner
requests that the court issue an ex parte order for temporary
custody and detention for emergency examination or treatment.

Respondent was taken into emergency custody by
PCA under AS 47.30.705. The Peace
Officer/Mental Health Professional Application for
Examination is attached. Petitioner respectfully requests
that the court issue an ex parte order authorizing hospital-
ization for an evaluation as provided for in AS 47.30.710.

Facts in support of this request are as follows:

1. The respondent named above is 59 years of age and
resides at Princeton, Alaska.
2. The facts which make the respondent a person in need of (a
screening investigation) (hospitalization for evaluation)
are:

manic state homeless and non
medication compliant 2 1/2 months

~~000015~~
Exhibit A

3. Persons having personal knowledge of these facts are:
(include addresses)

JOHN MCKEAN MD

4-5-05
Date

[Signature]
Petitioner's Signature

John McKean
Type or Print Name

Petitioner's Address

Petitioner's Phone

Verification

Petitioner says on oath or affirms that petitioner has read this petition and believes all statements made in the petition are true.

Subscribed and sworn to or affirmed before me at Anchorage
Alaska on 4/5/05
(date)

[Signature]

Clerk of Court, Notary Public or other person authorized to administer oaths.
My commission expires: 10/5/07



A person acting in good faith upon either actual knowledge or reliable information who makes application for evaluation or treatment of another person under AS 47.30.700-47.30.915 is not subject to civil or criminal liability. [AS 47.30.815(a)]

A person who willfully initiates an involuntary commitment procedure under AS 47.30.700 without having good cause to believe that the other person is suffering from a mental illness and as a result is gravely disabled or likely to cause serious harm to self or others, is guilty of a felony. [AS 47.30.815(c)]

I certify that on _____
a copy of this petition was sent to:

Clerk: _____

~~000016~~
Exhibit A

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
AT ANCHORAGE

In the Matter of the Necessity)
for the Hospitalization of:)
)
ROSLYN WETHERHORN,)
Respondent.)
_____)

Case No. 3AN-05-0459 PR

EX PARTE ORDER
(TEMPORARY CUSTODY FOR
EMERGENCY EXAMINATION/
TREATMENT)

FINDING AND CONCLUSIONS

Having considered the allegations of the petition for initiation of involuntary commitment and the evidence presented, the court finds that there is probable cause to believe that the respondent is mentally ill and as a result of that condition is gravely disabled or presents a likelihood of causing serious harm to him/herself or others.

ORDER

Therefore, it is ordered that:

1. Alaska Psychiatric Institute take the respondent into custody and deliver him/her to Alaska Psychiatric Institute, in Anchorage, Alaska, the nearest appropriate evaluation facility for examination.
2. The respondent be examined at the evaluation facility and be evaluated as to mental and physical condition by a mental health professional and by a physician within 24 hours after arrival at the facility.
3. The evaluation facility personnel promptly report to the court the date and time of the respondent's arrival.
4. The examination and evaluation be completed within 72 hours of the respondent's arrival at the evaluation facility.
5. A petition for commitment be filed or the respondent be released by the evaluation facility before the end of the 72 hour evaluation period (unless respondent requests voluntary admission for treatment).
6. Public Defender Agency is appointed counsel for respondent in this proceeding and is authorized access to medical, psychiatric or psychological records maintained on the respondent at the evaluation facility.

April 5, 2005

Date



Superior Court Judge

I certify that on _____
a copy of this order was sent
to: AG, PD, API, RESP

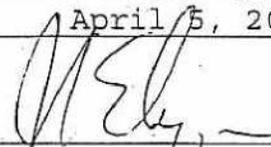
Clerk:

MC-305 (12/87) (st.5)

EX PARTE ORDER

Recommended for approval on

April 5, 2005



Master

AS 47.30.700, .710 & .715

000014

Exhibit A

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
AT Anchorage

Filed in the Trial Court's
State of Alaska, Third District
APR 5 2005
Clerk of the Trial Courts
By _____; Deputy

In the Matter of the Necessity)
for the Hospitalization of:)
Wetherhorn Roslyn)
Respondent.)
WETHERHORN)

Case No. 3AN05 459 PR

PETITION FOR 30-DAY
COMMITMENT

As mental health professionals who have examined the respondent, the petitioners allege that:

1. The respondent is mentally ill and as a result is
 likely to cause harm to himself/herself or others.
 gravely disabled and there is reason to believe that the respondent's mental condition could be improved by the course of treatment sought.
2. The evaluation staff has considered, but has not found, any less restrictive alternatives available that would adequately protect the respondent or others.
3. APL is an appropriate treatment facility for the respondent's condition and has agreed to accept the respondent.
4. The respondent has been advised of the need for, but has not accepted, voluntary treatment.

The petitioners respectfully request the court to commit the respondent to the above-named treatment facility for not more than 30 days.

The facts and specific behavior of the respondent supporting the above allegations are:

*Mom's state homeless & no insight
and won med complaint & 3 months*

WDM nm

Case No. 3AN05459 PR

The following persons are prospective witnesses, some or all of whom will be asked to testify in favor of the commitment of the respondent at the hearing:

4-5-05
Date

[Signature]
Signature
John Melton
Printed Name

Title

4-5-05
Date

[Signature]
Signature
Laurel Silberschmitt
Printed Name
LCRW
Title

Note: This petition must be signed by two mental health professionals who have examined the respondent, one of whom is a physician. AS 47.30.730(a).

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

In the Matter of the Necessity
for the Hospitalization of:

Roslyn Wetherhorn

Respondent.

Case No. 3AN-05-00459PR

NOTICE OF 30-DAY
COMMITMENT HEARING

To: Respondent

Respondent's Attorney: PD

State's Attorney: Attorney General's Office

Petitioner/Facility: API

The court has received a petition requesting examination and evaluation of the respondent to determine if the respondent is mentally ill and as a result of that condition is gravely disabled or presents a likelihood of causing serious harm to himself/herself or others. The court has also received a petition for commitment of the respondent for up to 30 days pursuant to AS 47.30.730 (copy attached).

A hearing to decide whether commitment of respondent is necessary will take place in the Superior Court at Anchorage, Alaska, in API Anchorage on April 08, 2005 at 1:30 pm before the Honorable John E Duggan.

The court has appointed as counsel for the respondent in this matter.

At the hearing, the respondent has the following rights:

1. Representation by counsel
2. To be present at the hearing
3. To view and copy all petitions and reports in the court file on respondent's case.
4. To have the hearing open or closed to the public as the respondent elects.
5. To have the rules of evidence and civil procedure applied so as to provide for the informal but efficient presentation of evidence.
6. To have an interpreter if the respondent does not understand English.

7. To present evidence on his/her own behalf.
8. To cross-examine witnesses who testify against him/her.
9. To remain silent.
10. To call experts and other witnesses to testify on the respondent's behalf.
11. To appeal any involuntary commitment.

If commitment or other involuntary treatment beyond the 30 days is sought, the respondent shall have the right to a full hearing or jury trial.

Before the court can order the respondent committed, the court must find by clear and convincing evidence that respondent is mentally ill and as a result of that condition is gravely disabled or presents a likelihood that he/she will cause harm to himself/herself or others.

4/8/2005
Date

SHarris
Judge/Clerk

I certify that on 4/8/2005
A copy of this notice and the Petition for
30-Day Commitment were sent to the persons
listed on page one.

Clerk: SHarris

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
AT Anchorage

In the Matter of the Necessity
for the Hospitalization of:
 Roslyn Wetherdown
Respondent.

Case No. 3AN05 459 PR

NOTICE OF RIGHTS UPON
DETENTION FOR EVALUATION

TO: Roslyn Wetherdown

You are entitled to a court hearing within 72 hours of your arrival at this facility. The hearing will determine whether there is cause to detain you after the 72 hours have expired for up to an additional 30 days on the grounds that you are mentally ill and as a result of that condition are gravely disabled or are likely to cause serious harm to yourself or others.

You have the right to communicate immediately (at the state's expense) with your guardian, if any, or an adult designated by you. You may also communicate with the attorney designated by the court or an attorney of your choice.

You have the right to be represented by an attorney, to present evidence and to cross-examine witnesses who testify against you at the hearing.

You have the right to be free of the effects of medication and other forms of treatment to the maximum extent possible before the 30-day commitment hearing.

I certify that on 4/8 , 2005, at 1230 .m., I verbally advised the respondent of his/her rights under AS 47.30.725 and delivered a copy of this document to the respondent.

4/8/05
Date

[Signature]
Signature

Print Name and Title

Distribution:

- Original to court
- Copy to respondent
- Copy to evaluation facility

The respondent's guardian, if any, and if the respondent requests, an adult designated by the respondent, shall also be notified of the respondent's rights explained on this notice.

~~000050~~

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

AT Anchorage

In the Matter of the Necessity)
for the Hospitalization of:)
Roslyn Wetherborn,)
Respondent.)

Case No. 3AN05 459 PR

AFFIDAVIT OF SERVICE
OF DOCUMENTS

I state on oath or affirm that on 4/8/05, ~~is~~,

at 1230 .m., I served a copy of POA/Pet 30/Notice
Ex Parte/Pet 30/Notice
(title of document)

on respondent and API
(institution)

by hand delivery
(manner in which service was accomplished)

4/8/05
Date

[Signature]
Signature

Print Name

Title

Subscribed and sworn to or affirmed before me at _____,
Alaska, on _____, 19____.

(SEAL)

Notary Public for Alaska
My commission expires: _____

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
AT Anchorage

Filed in the Trial Court
State of Alaska, Third District
APR 15 2005
Clerk of the Trial Courts
Deputy

In the Matter of the Necessity)
for the Hospitalization of:)

Roslyn Weatherhorn

) Case No. 3AN05459 P/R

Respondent.

) PETITION FOR COURT APPROVAL OF
) ADMINISTRATION OF PSYCHOTROPIC
) MEDICATION [AS 47.30.839]

ROSLYN WEATHERHORN

Jan Kiele, MD

petitioner, requests a hearing on the
respondent's capacity to give or withhold informed consent to the use
of psychotropic medication, and alleges that:

There have been, or it appears that there will be, repeated
crisis situations requiring the immediate use of medication to
preserve the life of, or prevent significant physical harm to, the
patient or another person. The facility wishes to use psychotropic
medication in future crisis situations.

Petitioner has reason to believe the patient is incapable of
giving or withholding informed consent. The facility wishes to use
psychotropic medication in a noncrisis situation.

Court approval has been granted during a previous commitment
period, and the facility wishes to continue medication during the
subsequent commitment period. A 90/180 day petition is being filed.
The patient continues to be incapable of giving or withholding
informed consent.

The patient has refused has not refused the medication.

4-15-2005
Date

[Signature]
Signature

(Representative of evaluation or
designated treatment facility)

JAN KIELE MD
Printed Name

PSYCHIATRY
Title

Verification

Petitioner says on oath or affirms that petitioner has read this
petition and believes all statements made in the petition are true.

Subscribed and sworn or affirmed before me at
Alaska, on 4/15/05
(date)

Anchorage
[Signature]

Clerk of Court, Notary Public, or other
person authorized to administer oaths.

My commission expires: 10/5/07



Exhibit A

000011 12

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT

In the Matter of the Necessity for the)
Hospitalization of:)
)
Roslyn Wetherton)
Respondent.)
_____)

Case No. 3AN-05-459 PR

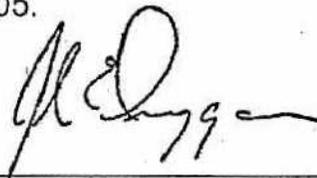
NOTICE OF HEARING AND ORDER FOR APPOINTMENT
OF COURT VISITOR

A hearing on the Petition for Court Approval of Administration of Psychotropic Medication will take place in the Superior Court at Anchorage, Alaska in the hearing room at Alaska Psychiatric Institution on April 15, 2005, at 1:30 PM before the Honorable John E. Duggan.

The Court has appointed Public Defender Agency as counsel for the respondent in this matter.

OPA is appointed as visitor and is authorized to receive all medical/psychiatric, financial, educational and vocational records including those from secondary sources, and any pertinent information necessary information necessary to formulate recommendations to the court.

DATED at Anchorage, Alaska on April 15, 2005.



JOHN E. DUGGAN
PROBATE MASTER

I certified that on 04/15/05
copies of this form were sent
To: AG/PD/OPA/API/RESP

Clerk: smh

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
AT ANCHORAGE

In the Matter of the necessity)
for the Hospitalization of:)

ROSLYN WETHERHORN,)
Respondent.)

Case No. 3AN-05-00459 P/S

ORDER FOR 30-DAY COMMITMENT

FINDINGS

A petition for 30-day commitment was filed on APRIL 5, 2005.

A hearing was held on APRIL 15, 2005, to inquire into the mental condition of the respondent. Respondent (was) (XXXXXXX) personally present at the hearing and was represented by E. BRENNAN, attorney. Representing the State was H. CHARI.

Having considered the allegations of the petition, the evidence presented and the arguments of counsel, the court finds by clear and convincing evidence:

1. Respondent is mentally ill and, as a result, is
| | likely to cause harm to himself/herself or others.
| | gravely disabled.
2. Respondent has been advised of and refused voluntary treatment.
3. Respondent is a resident of the State of Alaska.
4. Respondent was given verbal notice that if commitment or other involuntary treatment beyond the 30 days is sought, respondent will have the right to a full hearing or jury trial.
5. Alaska Psychiatric Institute, or a designated treatment facility closer to the respondent's home, is an appropriate treatment facility.* No less restrictive facility would adequately protect the respondent and the public.

*If space is available, and upon acceptance by another treatment facility, the respondent shall be placed by the department at the designated treatment facility closest to the respondent's home pursuant to AS 47.30.760; unless the court orders otherwise.

6. The facts which support the above conclusions are:

1. Clear and convincing evidence of mental illness including Dr. Kiele's expert psychiatric diagnosis of bipolar disorder, most recent episode manic. Dr. Kiele testified that Ms. Wetherhorn exhibits considerable difficulty with insight and judgment.

2. Clear and convincing evidence the respondent is gravely disabled including Dr. Kiele's testimony that Ms. Wetherhorn has had "lots of episodes or agitation" and has struck people during her hospitalization. The doctor said that Ms. Wetherhorn is alternately confused and agitated, suffers difficulty sleeping and lacks insight.

3. There is not a less restrictive treatment option.

ORDER

Therefore, it is ordered that respondent, ROSLYN WETHERHORN, is committed to ALASKA PSYCHIATRIC INSTITUTE for a period of time not to exceed 30 days. If space is available, and upon acceptance by another treatment facility, the respondent shall be placed at the designated treatment facility closest to the respondent's home.

April 27, 2005
Date

Nunc pro tunc 04/05/05

[Signature]
Superior Court Judge

I certify that on 5-3-05
a copy of this order was sent
to:

- respondent ✓
- respondent's attorney ✓
- attorney general ✓
- treatment facility ✓

Recommended for approval
4/26, 2005.

[Signature]
Master

Clerk: ✓

NOTICE OF RIGHTS

TO: Respondent

YOU ARE HEREBY GIVEN NOTICE that if commitment or other involuntary treatment beyond the 30 days is sought, you shall have the right to a full hearing or jury trial.

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
AT ANCHORAGE

In the Matter of the)
Necessity for the)
Hospitalization of:)

ROSLYN WETHERHORN,)
Respondent.)

Case No. 3AN-05-00459 P/S

FINDINGS AND
ORDER CONCERNING COURT-ORDERED
ADMINISTRATION OF MEDICATION

FINDINGS

A petition for court approval of administration of psychotropic medication was filed on APRIL 15, 2005.

Respondent was committed on APRIL 15, 2005 for a period of time not to exceed 30 days.

A hearing was held on APRIL 15, 2005, to inquire into respondent's capacity to give or withhold informed consent to the use of psychotropic medication.

Having considered the allegations of the petition, the evidence presented and the arguments of counsel, the court finds:

 A. The respondent has the capacity to give informed consent concerning administration of psychotropic medication for purposes of AS 47.30.836 as respondent is not found by clear and convincing evidence to be incompetent to make mental health and/or medical decisions.

XXXX B. By clear and convincing evidence that the respondent is not competent to provide informed consent concerning administration of psychotropic medication and the treating facility's proposed use of psychotropic medication is approved for the respondent's present commitment.

FINDINGS AND ORDER
CONCERNING COURT-ORDERED
ADMINISTRATION OF MEDICATION

Page 2

2. The facts which support the above conclusion are:

Clear and convincing evidence the respondent is unable to give or withhold informed consent concerning antipsychotic medication including Dr. Kiele's testimony that he discussed medications with Ms. Wetherhorn but Ms. Wetherhorn sometimes refuses medications and is inconsistent. Ms. Wetherhorn stated that "I don't like your drugs." The doctor testified that Ms. Wetherhorn has "very limited capacity to comprehend the medication decision and she has not been in a condition where [the doctor] could really discuss those [side-effects]. The doctor said that Ms. Wetherhorn is either agitated or sleeping. The respondent lacks insight concerning her illness and need for medication.

ORDER

_____ Therefore, the court having determined that the patient is competent to provide informed consent, it is ordered that the treating facility shall honor respondent's decision about administration of psychotropic medication.

XXXX Therefore, it is ordered that the treating facility's proposed use of psychotropic medication to treat the respondent is approved for the period of the respondent's current commitment.

If the treating facility wishes to continue the use of psychotropic medication without respondent's consent during a period of commitment that occurs after the present commitment period, it shall file a request to continue the medication when it files the petition to continue patient's commitment.

April 27, 2005
DATE
Nunc pro tunc 04/15/05

[Signature]
SUPERIOR COURT JUDGE

Exhibit A 17

FINDINGS AND ORDER
CONCERNING COURT-ORDERED
ADMINISTRATION OF MEDICATION

Page 3

Recommended for approval on
4/26/08, 2008
[Signature]
SUPERIOR COURT MASTER

I certify that on 5-3-08
a copy of this order was sent to:

respondent ✓
respondent's attorney ✓
attorney general ✓
treatment facility ✓

Clerk: [Signature]