

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)
)
)

Case No. 3AN-08-1252 PR

~~*** CONFIDENTIAL ***~~ Not Confidential
Jim Gottstein

TRANSCRIPT OF HEARING

BEFORE THE HONORABLE WILLIAM F. MORSE
Superior Court Judge

Anchorage, Alaska
November 18, 2008
12:11 P.M.

APPEARANCES:

FOR THE STATE: Erin Pohland, Esq.
Assistant Attorney General
1031 West 4th Avenue, Suite 200
Anchorage, Alaska 99501

FOR THE RESPONDENT: James B. Gottstein, Esq.
Law Project for Psychiatric Rights
406 G Street, Suite 206
Anchorage, Alaska 99501

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1 I-N-D-E-X
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 3 PAGE
 4 SARAH PORTER (telephonic)
 5 Cross Examination by Ms. Pohland 4
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1 Her -- her prior testimony has been offered
 2 as a hearsay exception under Rule 804(B)(1), which
 3 requires unavailability. Because the witness is
 4 available, the former testimony is hearsay and the
 5 State objects to its admission on that basis.
 6 THE COURT: Wait a minute. I don't have it
 7 in front of me. What is the format of the -- of the
 8 proposed direct testimony, Mr. Gottstein?
 9 MR. GOTTSTEIN: Well, it was -- it's a
 10 transcript of her testimony last September in a case
 11 involving Mr. Bigley.
 12 THE COURT: I'm going to allow that testimony
 13 in, you -- as direct testimony. If you want to cross,
 14 this is your opportunity to do so.
 15 MS. POHLAND: Okay. Thank you, Your Honor.
 16 SARAH PORTER
 17 called as a witness on behalf of Respondent, testified
 18 telephonically as follows on:
 19 CROSS EXAMINATION
 20 BY MS. POHLAND:
 21 Q Ms. Porter, are there -- this is Erin Pohland
 22 again. Other than a brief meeting during the
 23 September 2007 hearing, you have never had any
 24 interactions with Mr. Bigley; is that correct?
 25 A Correct.

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1 (Transcriptionist's note: When Mr. Bigley was asked a
 2 direct question and responded, this has been
 3 transcribed; however, I did not attempt to transcribe
 4 Mr. Bigley speaking in the background during the
 5 proceedings.)
 6 3AN6108-204
 7 12:11:56
 8 PROCEEDINGS
 9 THE COURT: -- clerk. Do you hear that oath,
 10 please?
 11 THE WITNESS: I didn't hear the oath, but I
 12 know it.
 13 (Oath administered.)
 14 THE WITNESS: I do.
 15 THE COURT: You may be seated. If you would
 16 state your first and last name, spelling both.
 17 THE WITNESS: Okay. My name is Sarah Porter.
 18 That's S-A-R-A-H, P-O-R-T-E-R.
 19 THE COURT: Thank you.
 20 Ms. Pohland, you may proceed.
 21 MS. POHLAND: Yes. Your Honor, as an initial
 22 matter, I wasn't aware that her prior testimony had
 23 been placed into the record yet. I thought that the
 24 State was going to make its individual objections
 25 prior to the testimony of each witness.

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1 Q Okay. Now, Ms. Porter, if a patient such as
 2 Mr. Bigley was unwilling or unable to engage with a
 3 mental health provider, wouldn't that diminish the
 4 likelihood of success of the alternative therapies
 5 that you proposed?
 6 A I don't -- I don't know that that would
 7 necessarily be the case. I think part of the approach
 8 of alternatives is to actually enable people to engage
 9 better.
 10 Q But -- and I know you haven't heard it.
 11 We've had testimony thus far that Mr. Bigley has been
 12 unwilling or unable to engage with people such as
 13 social workers.
 14 If this were the case, wouldn't it make it
 15 difficult for the alternative therapies to actually
 16 work?
 17 A Well, it would depend on how -- how he is
 18 approached. But it will require some willingness from
 19 him. But that's part of the approach is to actually
 20 approach him in such a way that would engage him.
 21 Q Okay. Ms. Porter, can you offer any specific
 22 alternatives to medication for Mr. Bigley that are
 23 currently available for him in Anchorage, Alaska?
 24 A My understanding is that in Anchorage, there
 25 is a program being developed which is a superior

1 Alaska program, which uses a non-drug alternative to
2 engage people. I'm not sure if that's open yet, but I
3 understand it will be quite shortly.

4 And (indiscernible) the Choices program which
5 operates alongside the mainstream mental health
6 services that also may well be able to assist
7 Mr. Bigley.

8 Q But you don't have any specific knowledge as
9 to whether or not these are true alternatives, i.e.,
10 whether there's funding resources or staffing
11 available for this to be used for Mr. Bigley; is that
12 correct?

13 A I understood it was funded by the Alaska
14 Mental Health Trust and that the -- and that they do
15 have staff that would be willing to work. But
16 certainly that was the case last year when I was
17 there.

18 MS. POHLAND: Okay. Your Honor, I have no
19 further questions.

20 THE COURT: Mr. Gottstein, do you have any
21 redirect?

22 MR. GOTTSTEIN: No, Your Honor.

23 THE COURT: Ms. Porter, thank you very much.
24 You may hang up. I appreciate your willingness to
25 make yourself available.

1 objects to the document as a whole because of the
2 selection of the included hospitalization slants --
3 it's not the full picture of his medical history.

4 THE COURT: Is that a yes or no?

5 MS. POHLAND: No.

6 THE COURT: Okay. Then don't.

7 MS. POHLAND: Okay.

8 THE COURT: And then I will rule on whether
9 it comes in. You can submit your alternative
10 proposal.

11 Mr. Gottstein, you submit by tomorrow at noon
12 your written response to their submission.

13 MR. GOTTSTEIN: Okay. Thank you, Your Honor.

14 THE COURT: Is there anything further?

15 MS. POHLAND: No, Your Honor.

16 THE COURT: Thank you. We will be in recess.
17 (Off record.)

18 12:17:39

1 THE WITNESS: Thank you. You're welcome.
2 Cheers. Bye bye.

3 MS. POHLAND: Bye. Thank you.
4 (Witness excused.)

5 THE COURT: Is there anything further?

6 MS. POHLAND: Yes. Your Honor, the State has
7 gone through the respondent's history provided by
8 Mr. Gottstein.

9 And frankly, we have been unable to redact
10 the objectionable parts without rendering the document
11 itself nonsensical.

12 And further, not all of the hospitalizations
13 have been included, so the selection of which ones
14 have been included slants the history.

15 Currently - and I should have it over to the
16 court and to Mr. Gottstein shortly, within an hour -
17 API is working on a simple Excel spreadsheet based on
18 the printout of his hospital admissions that just
19 say -- it has no commentary. It is simply the dates
20 of admission and the length of stay, which I would --
21 I'll be filing with the court this afternoon.

22 THE COURT: Are you going to redact any of
23 that or not?

24 MS. POHLAND: The -- well, we can, but it
25 renders the document nonsensical. And the State

1 TRANSCRIBER'S CERTIFICATE

2 I, Jeanette Blalock, hereby certify that the
3 foregoing pages numbered 1 through 8 are a true,
4 accurate, and complete transcript of proceedings in
5 Case No. 3AN-08-1252 PR, In the Matter of the
6 Necessity for the Hospitalization of William S.
7 Bigley, Hearing held on November 18, 2008, transcribed
8 by me from a copy of the electronic sound recording,
9 to the best of my knowledge and ability.

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11
12

Date Jeanette Blalock, Transcriber

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