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REC'D JAN 16 2009

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

12)
13)
14 In the Matter of the Necessity for the)
15 Hospitalization of: William Bigley)
16)
17)

18 Case No. 3AN 08-1252 PR

19 **RESPONSE TO LAW PROJECT FOR PSYCHIATRIC RIGHTS**
20 **MOTION TO CLARIFY STATUS**

21 Comes Now, the Public Defender Agency, counsel for William Bigley and
22 responds to PsychRights motion to clarify the status of the 90-day commitment
23 hearing. Contrary to PsychRights assertion, the issue before the court is not
24 whether the 90-day commitment hearing was open but rather PsychRights ability to
25 publicize Mr. Bigley's mental health issues. Mr. Bigley has a constitutional right to
26 privacy regarding this commitment hearing. This right is not waived even if Mr.
27 Bigley consented to his commitment hearing and his medication hearing being
28 open. Mr. Bigley has the right to waive confidentiality and permit the transcript to
be made public, however, absent a clear waiver by Mr. Bigley this court should
conclude that this matter is confidential and his appeal file should not be made a
public record.

The Public Defender Agency is currently appointed to represent Mr. Bigley
with respect to the 90-day petition. The court granted concurrent representation
allowing PsychRights to represent Mr. Bigley on the medication petition and the
Public Defender Agency to represent Mr. Bigley on the commitment petition. The
court concluded that the two petitions could be handled by separate counsel. The

RESPONSE TO MOTION TO CLARIFY

ITMO: W.B.

Case No(s). 3AN 08-1252 PR

ALASKA PUBLIC DEFENDER AGENCY

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court also concluded that Mr. Bigley's representation would not be hindered by the fact the attorneys representing Mr. Bigley had fundamental differences in how they handle commitment cases.¹

PsychRights is requesting this court to declare the 90-day commitment hearing open so that the transcript and all records regarding Mr. Bigley's commitment case can be made public. The ramification of PsychRights request is not just that the appeal file will be public record but that PsychRights would post all of this information regarding Mr. Bigley's commitments and medication petition on their website.² See, Attachment A, showing articles downloaded from PsychRights website regarding Mr. Bigley.

Mr. Bigley must waive his right to confidentiality for the record to be open to the public. His election to have a hearing open does not mean that he waives all confidentiality throughout this case. The issue of whether the 90-day commitment hearing is open is not dispositive of PsychRights request to publicize Mr. Bigley's mental health issues. First, Mr. Bigley did not elect to have his 90-day commitment hearing open. Since he did not make the election, it cannot now be determined open. Mr. Bigley exclusively has the right to make that election.

A respondent's election to have a commitment hearing open to the public does not mean that respondent waives his right to confidentiality on all issues. PsychRights' reliance on AS 47.30.735 to justify the disclosure of all information from the hearing is misplaced. AS 47.30.735 provides in pertinent part:

(b)The hearing shall be conducted in a physical setting least likely to have a harmful effect on the mental or physical health of the respondent, within practical limits. At the hearing, in addition to other rights specified in AS 47.30.660-47.30.915, the respondent has the right

¹ This is a prime example of why concurrent representation is not appropriate in this case. Specifically, PsychRights is challenging the Agency's method of representation and in that challenge attaches attorney communication. This challenge does not benefit Mr. Bigley but rather provides a disjointed defense where his defense attorneys are litigating strategy.

² See, www.PsychRights.org. Currently, PsychRights has articles about Mr. Bigley and his hospitalization at the Alaska Psychiatric Institute.

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2 (1) to be present at the hearing; this right may be waived only
3 with the respondent's informed consent; if the respondent is incapable
4 of giving informed consent, the respondent may be excluded from the
5 hearing only if the court, after hearing, finds that the incapacity exists
6 and that there is a substantial likelihood that the respondent's present
at the hearing would be severely injurious to the respondent's mental
or physical health;

7 (2) to view and copy all petitions and reports in the court file of
8 the respondent's case;

9 (3) to have the hearing open or closed to the public as the
10 respondent elects;

11 (4) to have the rules of evidence and civil procedure applied so
12 as to provide for the informal but efficient presentation of evidence;

13 (5) to have an interpreter if the respondent does not understand
14 English;

15 (6) to present evidence on the respondent's behalf;

16 (7) to cross-examine witnesses who testify against the
17 respondent;

18 (8) to remain silent;

19 (9) to call experts and other witnesses to testify on the
20 respondent's behalf.

21 These same rights apply in a 90-day commitment hearing and there is a
22 separate election in that hearing. AS 47.30.745. A respondent has the right to
23 choose whether his hearing is open or closed to the public. The election is
24 applicable to the hearing only and does not act as a waiver for release of all
25 information regarding the commitment hearing. PsychRights argues that if the
26 respondent elects to have a hearing open then the subsequent transcript or
27 records of the proceeding can be published, posted on a website, or disseminated.
28 PsychRights confuses the issue of a respondent's right to make a choice whether
the commitment hearing is open and a respondent's right to maintain confidentiality
after the hearing. Even if the court assumes the 90-day commitment hearing was

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2 open based on his prior elections this does not then provide authority to make all
3 information in this case public.

4 Counsel agrees that there are significant constitutional reasons for civil
5 hearings to be open to the public. However, civil commitment cases are different
6 than the types of cases relied upon by PsychRights. These cases must be treated
7 differently than criminal or standard civil cases. Commitment cases involve a lot of
8 confidential and personal information including a person's mental health status and
9 side effects to medication. The legislature understood the sensitive and private
10 issues associated with civil commitments and that is why the respondent has the
11 right to determine whether the hearing is open to the public. This right should not
12 be interpreted as a presumption that all hearings are open unless a respondent
13 objects. Instead, it should be interpreted that all hearings are closed unless a
14 respondent agrees or elects to have them open to the public. This presumption is
15 extremely important in these types of cases because individuals subject to
16 commitment hearings often do not have the capacity to consent to a hearing being
17 open.

18 This interpretation is consistent with the Alaska Constitution, Title 47 and the
19 Alaska Rules of Probate Procedure. The Alaska Constitution guarantees one's
20 right to privacy. Mr. Bigley's has a right to privacy that includes his involuntary
21 treatment at API. The legislature also included numerous safeguards within Title
22 47 to ensure that respondents' privacy interests are protected. For example, AS
23 47.30.845 provides:

24 Information and records obtained in the course of screening
25 investigation, evaluation, examination, or treatment are confidential
26 and are not public records, except as the requirements of a hearing
27 under AS 47.30-660-47.30-915 may necessitate a different procedure.
28 Information and records may be copied and disclosed under
regulations established by the department only to

(1) A physician or a provider of health, mental health, or social
or welfare services involved in caring for, treating, or rehabilitating the
patient;

(2) The patient or an individual to whom the patient has given
written consent to have information disclosed.

(3) A person authorized by a court order.

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2 This statute makes it clear that treatment information is confidential unless the
3 patient authorizes release of that information.³ Again, the individual has the right to
4 determine what information can be released. There is no presumption that this
5 information is automatically public because there was a court hearing.

6 Civil commitment proceedings can be analogized with Child in Need of Aid
7 (CINA) hearings. Like civil commitment cases, CINA cases involve confidential
8 information such as mental health treatment, substance abuse treatment, and
9 educational information. This information is confidential and often privileged;
10 however, in contrast to the civil commitment hearings CINA court hearings are
11 open to the public. AS 47.10.070(a). While the statute allows court hearings to be
12 open, this statute is not used as a vehicle to access all information in a CINA case.
13 The court hearings are open but the CINA court files are not public files.
14 Confidentiality is even maintained in the appeals process. See, Alaska Rules of
15 Appellate Procedure Rule 218 and 512.5. When an appeal is filed in a CINA case,
16 the parties must file two briefs; one brief with initials in order to preserve the
17 confidentiality.

18 Civil commitment statutes do not authorize open court hearings. It is only
19 authorized if a respondent elects to have is opened. The language of the statute
20 demonstrates a purpose of stringently protecting confidentiality in civil commitment
21 cases. The Alaska Supreme Court also requires appeals involving involuntary
22 commitment to be filed like they are filed in CINA cases. Any information on
23 appeal should be confidential.⁴

24 PsychRights cites no authority for its argument that the respondent's election
25 in 47.30.735 means that the transcripts of the proceeding are also public.
26 PsychRights argues that all hearings should be open absent affirmative action to
27 close them. The right to an open hearing lies exclusively with the respondent and
28 there is no presumption that the hearing be open.

³ See also, AS 47.30.940 discussing patient's right to privacy; AS 47.30.825 discussing medical rights of patients.

⁴ It should be noted when counsel files an appeal regarding an involuntary commitment at API, counsel is required to submit two briefs; one with initials in order to preserve confidentiality.

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Mr. Bigley did not make an affirmative election to have the 90-day commitment hearing open. Mr. Bigley has the right to privacy and there is no indication from PsychRights' motion that he has agreed to his treatment records being made public. Contrary to PsychRights' assertions, Mr. Bigley's right to privacy should not be diminished because he does not have a "reputation, job, school, or relationship to protect."⁵ Mr. Bigley is equally entitled to the same right of privacy as an affluent member of our society. PsychRights should not be allowed to pursue its own agenda at the expense of Mr. Bigley's right to privacy. Mr. Bigley has not waived his right to confidentiality and his treatment information should not be public record.

Therefore, it is respectfully requested that this court deny PsychRights' request to have the 90-day commitment hearing declared open without a specific election by Mr. Bigley. Further, it is respectfully requested that this court treat this case as confidential including all appeal derived from it.

ALASKA PUBLIC DEFENDER AGENCY

DATE 1/15/09

Kelly E. Gillilan-Gibson per KEG
KELLY E. GILLILAN-GIBSON
Assistant Public Defender
Bar No. 9505022

CERTIFICATE OF SERVICE

I certify that on January 15, 2009 a copy of the foregoing document, was faxed / mailed / hand-delivered to AG: Larry, Gottstein, Bill Bigley
By: [Signature]

⁵ PsychRights' Motion to Clarify, page 5.
RESPONSE TO MOTION TO CLARIFY
ITMO: W.B.
Case No(s). 3AN 08-1252 PR

PsychRights®

Law Project for
Psychiatric Rights

The Law Project for Psychiatric Rights (PsychRights) is a non-profit, tax exempt 501(c)(3) public interest law firm whose mission is to mount a strategic legal campaign against forced psychiatric drugging and electroshock in the United States akin to what Thurgood Marshall and the NAACP mounted in the 40's and 50's on behalf of African American civil rights. The public mental health system is creating a huge class of chronic mental patients through forcing them to take ineffective, yet extremely harmful drugs.

There are now two ways to make on-line tax deductible donations



Currently, due to massive growth in psychiatric drugging of children and youth and the current targeting of them for even more psychiatric drugging, PsychRights has made attacking this problem a priority. Children are virtually always forced to take these drugs because it is the adults in their lives who are making the decision. This is an unfolding national tragedy of immense proportions.

Call for Papers

Difficult Children and Families:

Understanding Instead of Diagnosing, and Evidence Based Interventions and Support Instead of Medications

International Center for the Study of Psychiatry and Psychology (ICSPP)

in collaboration with

It's About Childhood & Family Inc.

Syracuse, New York – Friday, October 10th- Saturday 11th, 2009

Focusing On:

1. Successful Alternatives to Pediatric Psychopharmacology
2. The "Science" and Practice of Pediatric Psychopharmacology
3. Historical perspective of failed mental health system and future directions

Highlighted Items

- Law Project for Psychiatric Rights v. State of Alaska, et al. Case No. 3AN 08-10115 CI, a lawsuit to stop the massive over-drugging of Alaska's children & youth.
- Forced Drugging Defense Package (4.5 Megabytes)
 - Microsoft Word version of pleadings
- The "clickable" Whitaker Affidavit
- Dr. Grace E. Jackson Affidavit
- Study Finds Drug Risks with Newer Antipsychotics, by Benedict Carey and Roni Caryn Rabin, *New York Times*, January 15, 2008.
 - Atypical Antipsychotic Drugs and the Risk of Sudden Cardiac (with supplement), by Death Wayne A. Ray, Ph.D., Cecilia P. Chung, M.D., M.P.H., Katherine T. Murray, M.D., Kathi Hall, B.S., and C. Michael Stein, M.B., Ch.B., *New England Journal of Medicine*, 3603: 225-235 (2009)
- Lilly Said to Be Near \$1.4 Billion U.S. Settlement on Drug, by Gardiner Harris,

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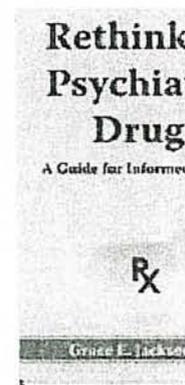
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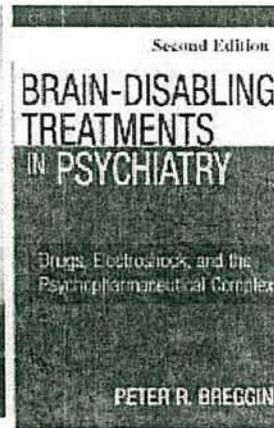
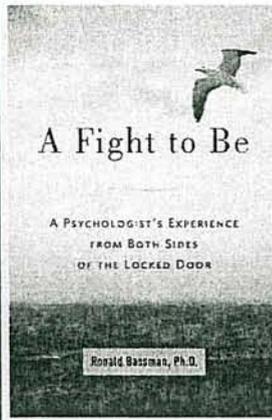
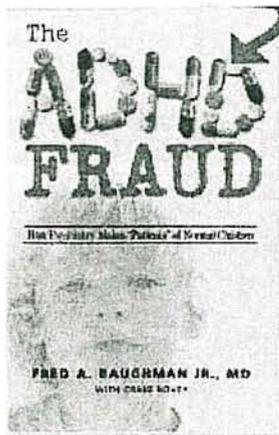
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PETER R. BRERG
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- New York Times*, January 15, 2009.
- Reporting Bias in Drug Trials Submitted to the Food and Drug Administration: Review of Publication and Presentation, Kristin Rising, Peter Bacchetti, Lisa Bero, *PLoS Medicine*, Vol. 5:11 1561-1570 (November 2008).
 - Users and Survivors of Psychiatry on the International Stage: A Snapshot, by Peter Lehman, December, 2008.
 - State Pharmacist Convicted of Conflict of Interest, by Debra Erdley, *Pittsburgh Tribune-Review*, December 24, 2008.
 - Forced Drugging of Bill Bigley
 - One Drug, Two Faces, *New York Times*, March 25, 2008.
 - The Zyprexa Papers Scandal
 - No Reason to Prefer Atypical Antipsychotics of Older Drugs, by John Gever, Senior Editor, *MedPage Today*, December 4, 2008.
 - Official warnings issued: The ADHD drug Strattera CAUSES psychosis, hallucinations, mania and agitation, by Janne Larsson, *TransworldNews*, December 1, 2008.
 - The Wholesale Sedation of America's Youth, by Andrew M. Weiss, *Skeptical Inquirer*, December, 2008, Vol 32:31-36.
 - Expert or Shill, *New York Times* Editorial, November 30, 2008.
 - Psychiatric Drugs & Suicide: How Medical Agencies Deceive Patients and Relatives, by Janne Larsson, November, 2008.
 - Research Center Tied to Drug Company, by Gardiner Harris, *New York Times*, November 25, 2008.
 - Plaintiff's Response in Opposition to Non-Party Joseph Biederman, M.D.'s Motion to Quash and/or Motion for Protective Order, November 12, 2008. **(14 megabytes)**.
 - Ailing FDA May Need a Major Overhaul. Officials and Groups Say, by Rob Stein, *Washington Post*, November 26, 2008.
 - Involuntary Commitment and Forced Psychiatric Drugging in the Trial Courts: Rights Violations as a Matter of Course, by James B. (Jim) Gottstein, *25 Alaska L. Rev.* 51 (2008).
 - How the Legal System Can Help Create a Recovery Culture in Mental Health Systems, presented at Alternatives 2005: Leading the Transformation to Recovery, Phoenix, Arizona, October 28, 2005.
 - Report on Multi-Faceted Grass-Roots Efforts To Bring About Meaningful Change To Alaska's Mental Health Program
 - Wetherhorn v. Alaska Psychiatric Institute, Opinion No. 6091, ruling Alaska's gravely disabled criteria unconstitutional (requiring the state prove the person unable to survive safely in freedom).
 - Myers v. Alaska Psychiatric Institute, Opinion No. 6021, June 30, 2006, ruling Alaska's forced psychiatric drugging regime unconstitutional.
 - Anatomy of an Epidemic: Psychiatric Drugs and the Astonishing Rise of Mental Illness in America, by Robert Whitaker, *Ethical Human Psychology and Psychiatry*, Volume 7, Number I: 23-35 Spring 2005.
 - Jim Gottstein Legal Defense Fund
 - MindFreedom Shield Program
 - Allen Jones' Full Whistle-Blower Report on Drug Company influence on states' drug purchases.





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PsychRights®

Law Project for
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Alaska

Case Seven -- Forced Drugging of Bill Bigley, Respondent,

One Drug, Two Faces, New York Times, March 25, 2008

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

Supreme Court Case No. 12851

Supreme Court Case No. S-13015

Superior Court Case No. 3AN 08-00247 PR

Superior Court Case No. 3AN 08-00493 PR

Supreme Court Case No. S-13116

Superior Court Case No. 3AN 08-1252 PR

Supreme Court Case No. S-13353

Supreme Court Case No. S-13383(Cross Appeal of S-13353))

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

Mr. Bigley's History

Prior to 1980, Mr. Bigley, an Alaskan Native, was successful in the community, he had long-term employment in a good job, was married and had two daughters. In 1980, Mr. Bigley's wife divorced him, took his two daughters and saddled him with high child support and house payments, resulting in his first hospitalization at the Alaska Psychiatric Institute (API). When asked at the time what the problem was Mr. Bigley said "he had just gotten divorced and consequently had a nervous breakdown." He was cooperative with staff throughout that first admission.

At discharge, his treating psychiatrist indicated that his prognosis was "somewhat guarded depending upon the type of follow- up treatment patient will receive in dealing with his recent divorce." Instead of giving him help in dealing with his recent divorce and other problems, the system's approach was to lock him up and force him to take drugs that, for him at least, do not work, are intolerable, and have harmful mental and physical effects.

This pattern was set by his third admission to API: As is often the case, the medication did not have noticeable favorable effects throughout the first several hospital weeks and there were a variety of unpleasant Extra Pyramidal Symptoms (EPS). On 3/26/81 a judicial hearing determined that there would be granted a 30 day extension during which time treatment efforts would continue, following which there would be a further hearing concerning the possibility of judicial commitment. Mr. Bigley was furiously angry that he was deprived of his right to freedom outside the hospital, but despite his persistent anger and occasional verbal threats, he never became physically assaultive, nor did he abuse limited privileges away from the locked unit.

Twenty seven years and over 70 admissions later API has continued to lock him up to forcibly drug him and then release him into the community, knowing full well he will quit them. Even after the maximum drugging, API describes Mr. Bigley's condition as "delusional" with "no insight and poor judgment, . . . paranoid and guarded."

In 2004, API petitioned for Mr. Bigley to have a full guardianship appointed, which was granted and the Alaska Office of Public Advocacy (OPA) appointed as his full guardian. At that point, virtually all of Mr. Bigley's legal right to decide anything for himself was taken away from. He's livid about this, of course.

In spite of this 27 years of failure over 70 admissions, API's psychiatrist testified in the April, 2007 public jury trial, that the plan is by repeatedly obtaining forced drugging orders Mr. Bigley will be trained to stay on his medication when discharged.

While Mr. Bigley usually "submits" when 3 or 4 staff members come at him with a needle, on those occasions when he doesn't, he is physically held down and the drugs injected into him. Mr. Bigley is quite naturally livid about all of this happening to him.

It is quite clear that Mr. Bigley's ongoing psychiatric difficulties are the result of what the mental health system has done to him. The drugs do not "work" for a high percentage of people and Mr. Bigley is certainly one of them. Instead of addressing his problems in ways that are known to be effective, API has continued to force Mr. Bigley to endure interventions that have quite properly been characterized as torture.

PsychRights Begins Representing Mr. Bigley

PsychRights began representing Mr. Bigley on December 6, 2007. It was looking for an appropriate vehicle to subpoena what have become known as the Zyprexa Papers, and advance other strategic litigation objectives that might be possible through representing him. Of course, once representing him, as his attorney, PsychRights was obligated to do so vigorously with respect to any and all other interests he might have in the case(s) in which he was represented by PsychRights. Initially, PsychRights thought OPA had been consenting to Mr. Bigley's forced drugging⁴ and as an alternative to termination of the guardianship if termination was not granted, petitioned to eliminate the guardian's right to consent to Mr. Bigley being given these drugs against his will.

Since then, PsychRights has also represented Mr. Bigley in a number of forced drugging proceedings, as well as continuing to represent him in trying to get out from under his guardianship. In the first one, API just let him go after PsychRights got into the case and demanded a jury trial. In the second one, Mr. Bigley won a jury trial on involuntary commitment and he was let go. Mr. Bigley also won another jury trial on involuntary commitment in which another part of OPA represented him and Jim Gottstein testified on his behalf as a fact witness.

Proceedings in This Case: Through the Looking Glass

Note: Most of the links don't work because the Probate Master, improperly in PsychRights' view, closed the file from public access even though Mr. Bigley elected to have the hearing open to the public as is his right. This is on appeal. However, the motions and order regarding the closure of the file are public:

- September 25, 2007, motion to open the file to the public.

- October 5, 2007, opposition by API to public access
- October 10, 2007, reply to that opposition
- January 24, 2008, Court Order denying the motion to open it up to the public.

This decision has been appealed because the right of involuntary commitment and forced drugging respondents to have their proceedings open to the public is an important right.

The current case started on August 30, 2007, when involuntary commitment and forced drugging petitions were both filed, and a hearing set for the next day on both of them. (Since this was a new petition for a 30-day commitment, Mr. Bigley did not have the right to a jury trial.) Filing the forced drugging petition at the same time as the involuntary commitment and having a hearing on both at the same time, is contrary to both the *Myers*¹ and *Wetherhorn*² decisions by the Alaska Supreme Court, which held that a petition for forced drugging should only be filed and heard after commitment has been ordered and, unlike commitment, there should be no particular hurry.

The next morning, August 31st, PsychRights filed pleadings, including that PsychRights was Mr. Bigley's attorney only as to the forced drugging petition and objecting to various aspects of the proceedings. Thus, at the hearing that afternoon, the Public Defender Agency represented Mr. Bigley in the involuntary commitment proceeding, which went first. At the beginning of that hearing, while represented by the Public Defender Agency, Mr. Bigley elected to have the hearing open to the public as is his right under AS 47.30.735(b)(3).

API's psychiatrist testified that while Mr. Bigley can be very loud and an extreme pest, he isn't violent. Since Mr. Bigley especially has problems when he loses his housing and his being kicked out of the homeless shelter precipitated the current hospitalization, API's psychiatrist was asked if Mr. Bigley could just stay at API when he needed/wanted to. API's psychiatrist replied, no, API is not a dormitory or boarding house. API's psychiatrist testified that Mr. Bigley was "gravely disabled" because he hadn't been eating enough, he yells at people, making threats he won't carry out and someone assault him as a result. The Probate Master indicated he was recommending commitment based on Mr. Bigley being gravely disabled because he had lost weight, starving himself, lost numerous housing situations, was homeless and jeopardizes his well-being.

Then the Probate Master turned to the forced drugging petition in which Mr. Bigley was being represented by PsychRights³

One of PsychRights objections was that Mr. Bigley was at least entitled to notice of the factual basis of API's claim that forcibly drugging Mr. Bigley is in his best interests. Under *Myers*, in determining best interests, the court was required to consider:

(A) an explanation of the patient's diagnosis and prognosis, or their predominant symptoms, with and without the medication;

(B) information about the proposed medication, its purpose, the method of its administration, the recommended ranges of dosages, possible side effects and benefits, ways to treat side effects, and risks of other conditions, such as tardive dyskinesia;

(C) a review of the patient's history, including medication history and previous side effects from medication;

(D) an explanation of interactions with other drugs, including over-the-counter drugs, street drugs, and alcohol; and

(E) information about alternative treatments and their risks, side effects, and benefits, including the risks of nontreatment,

API responded that Mr. Bigley should know to what the psychiatrist was going to testify. The Probate Master went along with API.

PsychRights said it wasn't prepared to go forward that day, less than 24 hours after the petition was filed and requested a short delay. API strenuously objected, saying that it needed to be able to drug Mr. Bigley because he was so disruptive. This was in spite of API's psychiatrist just having testified that Mr. Bigley didn't act on his threats and as a professional Mr. Bigley's behavior didn't concern him. The Probate Master granted a short continuance until Wednesday, September 5th. In order to mollify the hospital, the Probate Master, who is delegated the responsibility of hearing the evidence and making recommendations to the trial court, said that in an emergency, the hospital could use the police power justification contained in AS 47.30.838.

On Tuesday, September 4th PsychRights filed the following pre-hearing papers:

- Pre-Hearing Brief
 - Risperdal Subpoena **1.5 Megabytes**
 - Seroquel Subpoena ⁵ **1.5 Megabytes**
 - Zyprexa Subpoena **1.5 Megabytes**
 - Depakote Subpoena **1.5 Megabytes**
- Ronald Bassman, Ph.D. Pre-Filed Testimony (about viable alternatives to psychiatric drugs).
- Robert Whitaker Pre-Filed Testimony (the lack of effectiveness and extreme harm of the neuroleptics) **8 Megabytes**
- Appendix (supporting documents)

The Pre-Hearing Brief went into a number of matters and all of the above supporting documents were discussed. For example, the reason for the subpoenas is that these were the drugs that Mr. Bigley had been forcibly drugged with in the recent past and the drug manufacturers had suppressed the studies where the results weren't what the manufacturers wanted, and under *Myers* the courts can not possible be able to properly conclude forcing them on Mr. Bigley is in his best interest without having access to these secret studies. The Bassman and Whitaker pre-filed testimony goes directly to *Myers* factors.

At the beginning of the September 5th hearing, API moved to strike most of the materials filed on behalf of Mr. Bigley. Then, after some procedural skirmishing, API's psychiatrist testified as to why Mr. Bigley should be forcibly drugged and that there was no less intrusive alternative. He also testified that if he wasn't taken to API when things deteriorated, Mr. Bigley would end up in jail. In other words, API's psychiatrist refused to consider anything other than forced drugging for Mr. Bigley at API. PsychRights asked to take a visiting expert on less intrusive alternatives from New Zealand, Sarah Porter, before cross-examining API's psychiatrist because time was running out for the day and she was going to be unavailable after the end of the week. This was allowed and Ms. Porter testified about how people experience much better outcomes if they are not forced and their problems are addressed through negotiation instead. The hearing was then continued until September 10th.

On September 6th Jim Gottstein mentioned to the clerk that the file was open to the public and the next day, the Probate Master issued an order that while the hearing might have been open, the file was

closed. PsychRights asked for reconsideration of this, which was denied. This is an outrageous decision in PsychRights' view because it is Mr. Bigley's right to have the file open to the public. The only reason to close it is if he wants to keep it private to protect his reputation. This is not a factor for Mr. Bigley and he wants the world to know what API has been doing to him. It is hardly imaginable that Mr. Bigley can't post his own pleadings on the Internet, but because Jim Gottstein has been threatened with financially ruinous civil contempt charges in the Zyprexa Papers Case in the Brooklyn Federal Court involving when he subpoenaed the Zyprexa Papers for Mr. Bigley's guardianship case, as well as criminal contempt charges and a move against his license to practice law for disseminating documents he still believes had lost all confidential status the documents have been removed from the Internet until the issue is favorably resolved. Therefore, many of the above links don't currently work.

It then turned out that in spite of there being no order authorizing forced drugging and there being no emergency(ies) under AS 47.30.838, Mr. Bigley continued to be forcibly drugged as if there was authorization to do so. Therefore, on Monday, September 10, 2007, PsychRights filed for emergency relief from the Alaska Supreme Court if the forced drugging had not been stopped by 4:00 pm.

- Original Application for Relief, September 10, 2007
- Emergency Motion for Injunctive Relief, September 10, 2007
- form of Order Granting Motion for Injunctive Relief, September 10, 2007
- Appendix, September 10, 2007 **18 Megabytes**

These were e-mailed to API the night before, so that it would have as much notice as possible. After the Original Application for Relief and Emergency Motion for Injunctive Relief were filed first thing Monday morning, September 10, 2007, API was ordered by the Alaska Supreme Court to respond by 3:00 pm that afternoon. API quit the forced drugging, and at the September 10, 2007 hearing, notified the Court and essentially decided to drop the forced drugging petition and discharge Mr. Bigley in a couple of days.⁶

Because just discharging Mr. Bigley without sufficient forms of support was very likely to land Mr. Bigley in jail, on September 12, 2007, PsychRights moved for a permanent injunction that:

1. Mr. Bigley be allowed to come and go from API as he wishes, including being given, food, good sleeping conditions, laundry and toiletry items.
2. If involuntarily in a treatment facility in the future, Mr. Bigley be allowed out on passes at least once each day for four hours with escort by staff members who like him, or some other party willing and able to do so.
3. Only the Medical Director of API may authorize the administration of psychotropic medication pursuant to AS 47.30.838 (or any other justification for involuntary administration of medication, other than under AS 47.30.839), after consultation with James B. Gottstein, Esq., or his successor.
4. API shall procure and pay for a reasonably nice two bedroom apartment that is available to Mr. Bigley should he choose it. API shall first attempt to negotiate an acceptable abode, and failing that procure it and make it available to Mr. Bigley.
5. At API's expense, make sufficient staff available to be with Mr. Bigley to enable him to be successful in the community.

6. The foregoing may be contracted for from an outpatient provider.

These were very carefully designed to take into account Mr. Bigley's situation and give him a reasonable chance of being successful in the community and was supported by the Affidavit of Paul Cornils, with CHOICES, Inc., a new program that just got going to provide the types of less intrusive alternatives the Alaska Supreme Court ordered in *Myers*. Among the reasons given for this injunction was:

Because it has determined not to continuing seeking court approval to forcibly drug Mr. Bigley, API currently plans to discharge Mr. Bigley into exactly the same situation which he has been, and which [API's Psychiatrist] testified is very likely to land Mr. Bigley in jail. API should not be allowed to do so. API should be ordered to provide the type of reasonably available community supports that can be provided him at reasonable cost, which he voluntarily accepts, to give him a real chance at success in the community.

However, before the motion was dealt with, on Friday, September 14, 2007, Mr. Bigley was discharged without sufficient supports.

On September 17th, the Probate Master ordered most of the pre-hearing supporting materials stricken, improperly removed them from the official court file, and returned them to PsychRights.

On September 19th Mr. Bigley was arrested by the Federal Protective Service and charged with (1) failure to comply with the lawful order of a Federal police officer and (2) (a) being loud and a nuisance, (b) obstructing the use of a federal office(s), and (c) impeding or disrupting federal employees. *See, USA v. Bigley, 07-192*. He was locked up in jail for weeks.

On September 25, 2007, a Motion to Open the Court File to Public Inspection was filed. Under Administrative Rule 37.7(b), this has to be available to the public, which is why it can be posted even though the file is still being kept secret by the Probate Master. On October 5, 2007, API filed an opposition to public access, on October 10, 2007, PsychRights filed a reply to that opposition, and on January 24, 2008, the Court denied the motion to open it up to the public.

On September 24, 2007, the Probate Master issued his recommendations, which, among other things termed the motion requiring the hospital to provide the less intrusive alternatives outlined above, frivolous, especially, the one for housing, and recommended I be fined \$250 for filing it.

On September 28, 2007, Mr. Bigley submitted formal Offers of Proof, returning all the documents the Probate Master removed from the official court file and outlining their relevance (which had already been done).

On October 5, 2007, Mr. Bigley submitted a 56 page Objections to the Master's Report, re-asserting the right to the less intrusive alternatives requested. The hospital responded the the Objections to the Master's Report and the offers of proof on October 11, 2007.

On October 20, 2007, Mr. Bigley was picked up by the police for creating disturbances, held in jail for a few days and then sent to API on October 23, 2007. This was while I was out of town on an extended trip. He was assigned a public defender and a hearing held on November 2, 2007 (which I attended). The public defender called no witnesses and put on no evidence, even though I had given him the evidence I had used previously.

The trial court has not yet ruled on the less intrusive alternatives potion of the earlier case, Mr. Bigley

still needs the sort of support in the community that will give him a reasonable chance to succeed. We can't appeal on the less intrusive alternative request until the trial court rules. There are also two other clean up items that need to be taken care of, which are to vindicate Mr. Bigley's right to have the file open to the public and to get the materials that were stricken back in the court file. The latter is also needed so the record can be complete for the anticipated appeal. If these aren't corrected at the trial court level, it is anticipated they will be included in the appeal.

A very disturbing aspect of the most recent commitment and forced drugging proceedings is that after the hospital caved on the previous forced drugging petition in the face of the overwhelming case against it presented by PsychRights, a new case was filed, held in front of the same judge, none of the evidence against the drugging was presented by his public defender, and a forced drugging order was issued against him in as usual.

As of this writing, Mr. Bigley is still locked up at API and being drugged against his will.

¹In *Myers*, decided in June of 2006, the Alaska Supreme Court held that under the Alaska Constitution, people can't be forcibly drugged unless, in addition to the statutory requirement of incompetence, the court finds by clear and convincing evidence that (1) the forcible drugging is in the patient's best interests, and (2) there is no less intrusive alternative available.

²In *Wetherhorn*, decided in January of 2007, the Alaska Supreme Court held that people can't be involuntarily committed as "gravely disabled," unless gravely disabled is "construed to require a level of incapacity so substantial that the respondent cannot survive safely in freedom."

³There was and is a huge imbroglio over the status of representation, but that won't be described here.

⁴OPA has indicated it did not and does not do so, but PsychRights found an instance where Mr. Bigley's guardian did sign a consent to have Mr. Bigley psychiatrically drugged against his will.

⁵At the January 16-17, 2007, hearing in the Zyprexa Papers case in federal court in Brooklyn, Mr. Gottstein had not yet been allowed to review Mr. Bigley's medical records because the guardian took the position that Mr. Bigley could not consent to have his lawyer review his records in his case against his guardian; that only the guardian could consent. Also, the deposition Mr. Gottstein had set for December 11, 2006, to among other things, obtain the records, had been blocked by API and the guardian. Thus, at the Brooklyn hearing, Mr. Gottstein could not testify that Mr. Bigley had been forcibly drugged with Zyprexa. This was relied upon by the Brooklyn court in finding that the Mr. Bigley case was not a legitimate case in which to have subpoenaed the heretofore secret documents related to harms caused by Zyprexa. Since then, of course, as Mr. Gottstein had assumed, it has been determined that Mr. Bigley had been subjected to Zyprexa pursuant to a forced drugging order shortly before the subpoena. He has also been forcibly drugged with Zyprexa since January, 2007.

⁶Because API allowed this gross violation of Mr. Bigley's rights to take place, if not endorse it, suggests a pattern or practice of violating Mr. Bigley's federal civil rights, a letter was written to the United States Department of Justice requesting an investigation of API under the Civil Rights of Institutionalized Persons Act (CRIPA). The Department of Justice responded by letter dated October 23, 2007, which PsychRights will probably follow up on if a satisfactory resolution can not be negotiated with API.

USA v. Bigley 3:07-MJ-00192-JDR

- Affidavit
- Complaint
- September 20, 2007, Minute Order regarding attempted arraignment
- Order Remanding Defendant to API for Competency Determination

During all of this, the following "Pickles" cartoon appeared. It seemed *apropos* of Mr. Bigley's situation, and Mr. Gottstein obtained Mr. Bigley's permission to post it on this web page.



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Original Application for Relief in the Alaska Supreme Court. S-12851

- Original Application for Relief, September 10, 2007
- Emergency Motion for Injunctive Relief, September 10, 2007
- form of Order Granting Motion for Injunctive Relief, September 10, 2007
- Appendix, September 10, 2007 18 Megabytes
- Opposition to Emergency Motion for Injunctive Relief, September 10, 2007 (stating the forced drugging had stopped since motion was filed)
- Alaska Supreme Court Order Denying Emergency Motion, September 12, 2007.
- Motion to Withdraw Original Application for Relief, September 18, 2007.

30-Day Commitment and Forced Drugging Proceeding 3AN 07-1064PRFile Closed

On September 6, 2007, the Probate Master issued an order that even though Mr. Bigley elected to have the hearing public, the file is closed.

I think that is an outrageous order, making clear that these proceedings are literally a Star Chamber like in the Spanish Inquisition. These drugs are experienced as torture by the people who are forced to take them; if they don't "submit," they are literally held down by three or four

staff members and forcibly injected with these drugs which the Alaska Supreme Court in *Myers* equated with Electroshock and Lobotomy. They kill some people outright and, on average, diminish their life expectancies by 25 years. My client has the absolute Constitutional right to have all of the proceedings open to the public. It was the recognition by our Founding Fathers that unless the courts were open to the public, government abuses would occur behind locked doors. What is happening in Alaska at the Alaska Psychiatric Institute (API) and around the country through massive due process violations that occur as a matter of course must be brought to light.

I can hardly imagine that the below pleadings I filed on behalf of my client may not be made public by him. However, I have been threatened with financially ruinous civil contempt charges in the *Zyprexa Papers Case in the Brooklyn Federal Court involving the same client*, as well as criminal contempt charges and a move against my license to practice law for disseminating documents I still believe had lost all confidential status. Therefore, I have removed the following from this website until it is sorted out.

September 6, 2007. Jim Gottstein.

Documents Posted on the Internet After Mr. Bigley Elected to Open Proceedings, and then Removed

- [August 31, 2007, Pleadings Filed by PsychRights](#) **8 Megabytes**
- Pre-Hearing Brief, September 4, 2007.
 - Risperdal Subpoena **1.5 Megabytes**
 - Seroquel Subpoena **1.5 Megabytes**
 - Zyprexa Subpoena **1.5 Megabytes**
 - Depakote Subpoena **1.5 Megabytes**
- [Ronald Bassman, Ph.D. Pre-Filed Testimony](#), September 4, 2007.
- [Robert Whitaker Pre-Filed Testimony](#), September 4, 2007. **8 Megabytes**
- _____

Subsequent Filings (not up to date)

- Motion to Strike Whitaker and Bassman Affidavits
- *Sua Sponte* Order closing court file to public.
- Motion for Expedited Consideration, September 10, 2007
- Opposition to Motion to Strike and Other Matters
- Motion to Reconsider *Sua Sponte* Order Closing Court file to the public. September 12, 2007.
- Motion for Permanent Mandatory Injunction, September 12, 2007.
- Affidavit of Paul A. Cornils, September 12, 2007.
- Order (striking 80% of Mr. Bigley's case)
- Order (returning documents filed with the Court pursuant to Appellate Rule 404(b)(2), September 17, 2007).

Other Documents

- [Letter to the Department of Justice under the Civil Rights of Institutionalized Persons Act \(CRIPA\) requesting an investigation of the apparent pattern or practice of violations of civil rights](#)

at API, September 18, 2007.

- [Response from Department of Justice](#), October 23, 2007.
- [Astra-Zeneca Response \(Seroquel\)](#), September 10, 2007.
- [Abbot Response \(Depakote\)](#), September 7, 2007.
- [Refusal of Service by local counsel in other BB case \(Zyprexa\)](#), September 4, 2007
- [Response that Janssen not served \(Risperdal\)](#)

Supreme Court Case No. S13015 *W.S.B. v. Alaska Psychiatric Institute*

- February 20, 2008:
 - [Notice of Appeal](#)
 - [Points on Appeal](#)
 - [Notice Re: Application of Appellate Rule 512.5](#)
- [Opening Brief](#), June 26, 2008.
- [API Brief](#), September 14, 2008 (**11 megabytes**)
- [Reply Brief](#), October 27, 2008.

Superior Court Case No. 08-00247 PR

A story about this case was in the New York Times on March, 25, 2007: [One Drug, Two Faces](#) and the Wall Street Journal's Health Blog: [Zyprexa: Balancing Serious Side Effects With Serious Illness](#).

On February 26, 2008, new petitions for [30 Day Commitment](#) and [Forced Drugging](#) were filed against Mr. Bigley with the Alaska Public Defender Agency automatically appointed to represent him in both the commitment and forced drugging proceedings, the hearings for which were set for February 29, 2008. However, [Master Duggan](#) recused himself and [Master Lack](#) was appointed and a hearing set for March 5, 2008. At the [March 5, 2008](#), hearing, Mr. Bigley said he wanted Mr. Gottstein of PsychRights to represent him and a "representation hearing" was set for the next day, March 6, 2008, before Judge Mark Rindner, the Superior Court Judge who was assigned the case (these types of cases are uniformly "referred" to a probate master to hear evidence and make recommendations, but they are Superior Court cases and Superior Court Judges ultimately responsible for them). On March 6, 2008, PsychRights filed a [Submission for Representation Hearing](#), including written testimony by Robert Whitaker, Ronald Bassman, PhD., and [Paul Cornils](#), in which PsychRights indicated it would represent Mr. Bigley only with respect to the forced drugging petition which could only occur if and after Mr. Bigley was ordered committed under the "two-step" process the Alaska Supreme Court held was required in *Myers* and *Wetherhorn*. On March 10, 2008, PsychRights filed a [Motion for Less Intrusive Alternative](#) under *Myers*, which held people can not be forcibly drugged in the best interests if there is a less intrusive alternative.

However, Judge Rindner, who was also hearing the *Alaska v. Lilly* case at the same time, recused himself at the March 6, 2008, hearing, and the case was assigned to Judge Peter Michalski, who was the judge in 3AN 07-1064PS. In Alaska, parties have the right to automatically have one [change of judge](#) if they exercise the right within five days of appointment and before the judge has made any rulings, and on March 7, 2008, PsychRights filed a [Notice of Change of Judge](#) and Judge Jack Smith was appointed.

The representation hearing was held in front of Judge Smith on March 10, 2008, and he agreed that under *Myers* and *Wetherhorn*, the forced drugging petition was the second step of a two-step process and that PsychRights could represent Mr. Bigley if it should get to that point, but Mr. Gottstein should not be involved in the case or interfere with the Public Defender Agency's representation of Mr. Bigley in connection with the commitment petition, which was set for Friday, March 14, 2008. The judge indicated that he would treat PsychRights' filings as "lodged," rather than filed. That seemed workable, but that night the hospital injected Mr. Bigley with Haldol and Ativan, purportedly on an emergency basis under AS 47.30.838. However, AS 47.30.838 only allows such forced drugging to preserve life or prevent serious injury, and Mr. Bigley had even allegedly only been yelling and slamming doors. Mr. Gottstein drafted a motion for a temporary restraining order against future illegal use of the emergency justification, which he was happy to have the Public Defender Agency file, but failing to hear back, filed it at the end of the day on March 11, 2008. The court, however, returned the temporary restraining order motion package as well as the "lodged" documents, saying Mr. Gottstein was not a party and the documents could be refiled upon the determination of commitment and the filing of a new entry of appearance. The next day, March 12, 2008, PsychRights filed a new entry of appearance and a Renewed Motion for Temporary Restraining Order. With some involvement by the Public Defender Agency, the hospital agreed not to further forcibly drug Mr. Bigley on an "emergency" basis until after the commitment hearing that Friday, March 14, 2008, rendering the motion for Temporary Restraining Order Moot. The judge also returned the Renewed Motion for Temporary Restraining Order paperwork. The idea a judge can just remove filings from the official court file and return them is troubling, but in this case, it did no harm. This could be appealed, but probably won't.

At the commitment hearing on Friday, March 14, 2008, in which Mr. Bigley was represented by the Public Defender Agency, the hospital's psychiatrist testified that there was no reason to hold Mr. Bigley if he couldn't be drugged. This implicitly acknowledged that the doctor was not truly concerned about Mr. Bigley's safety if he was let go, although he did testify he was concerned that someone would assault Mr. Bigley if he was let out in an undrugged state. Judge Smith noted that Mr. Bigley had been hospitalized over 70 times, was uniformly drugged in the hospital, released and quit taking his drugs only to be brought back to the hospital to repeat the cycle, and that there didn't seem to be any point in continuing to do that. He also noted that Mr. Bigley had won his last two jury trials on the basis that he was not gravely disabled (actually he won only one of them for that reason; he won the other on the ground that his mental condition would not be improved by the course of treatment), and found that Mr. Bigley was not gravely disabled. Mr. Bigley was then let go. Thus, the forced drugging petition never got heard.

Transcripts

- March 5, 2008
- March 6, 2008
- March 7, 2008
- March 10, 2008
- March 14, 2008

Superior Court Case 3AN 08-00493 PR

- Forced Drugging Petition, April 28, 2008
- Limited Entry of Appearance, April 29, 2008 (46 Megabytes, with exhibits)
- Grace E. Jackson, MD, Affidavit, May 14, 2008.

- [Loren R. Mosher, MD, testimony](#), filed May 13, 2008 (from *Myers* case)
- [Loren R. Mosher Affidavit](#), filed May 13, 2008 (from *Myers* case)
- [Sarah Porter Testimony](#), filed May 13, 2008 (from September, 2007 trial)
- [Ronald Bassman, PhD, Affidavit](#) filed May 13, 2008 (from September, 2007 trial)
- [Robert Whitaker Affidavit](#) filed May 13, 2008 (from September, 2007 trial)
- [Paul Cornils Affidavit](#) filed May 13, 2008 (from September, 2007 trial)
- [Trial Court Decision](#), May 19, 2008

Transcripts

- [April 30, 2008 \(Involuntary Commitment Hearing\)](#)
- [May 12, 2008 \(Forced Drugging Hearing\)](#)
- [May 14, 2008 \(continued Forced Drugging Hearing\)](#)
- [May 15, 2008 \(continued Forced Drugging Hearing\)](#)

Supreme Court Case No. S-13116

- [Notice of Appeal](#), May 20, 2008
- [Points on Appeal](#), May 20, 2008
- [Emergency Motion for Stay Pending Appeal](#), May 20, 2008
 - [Exhibits \(30 Megabytes\)](#)
 - [Affidavit of Grace E. Jackson on Irreparable Harm from Risperdal \(risperidone\)](#), May 20, 2008
- [Letter from Hospital's Attorney re: more time to respond](#), May 21, 2008.
- [Opposition to Emergency Motion For Stay](#), May 22, 2008.
- [Order \(re: motion to strike Jackson Affidavit\)](#), May 22, 2008.
- [Response to Order \(re: motion to strike Jackson Affidavit\)](#), May 22, 2008.
- [Order Granting Stay Pending Appeal](#), May 23, 2008.
- [Motion for Reconsideration of Stay](#), May 28, 2008.
- [Opposition to Motion for Reconsideration of Stay \(with links to Exhibits\)](#), June 9, 2008.
- [Order Denying Reconsideration](#), June 25, 2008.
- [Order to brief whether the appeal should be expedited](#), June 25, 2008.
- [PsychRights Response to Appeal being Expedited](#), July 7, 2008.
- [Office of Public Advocacy Response to Appeal being Expedited](#), July 7, 2008.
- [Motion to Publish Stay Order](#), July 7, 2008.
- [Order to Expedite Appeal](#), July 14, 2008.
- [Order Denying Motion to Publish Stay Order](#), July 25, 2008.
- [Opening Brief](#), August 7, 2008
 - [Excerpt of Record \(100 megabytes\)](#)
 - [Notice Re: Judicial Notice Appendix](#), filed August 7, 2008
 - [Judicial Notice Appendix \(114 megabytes\)](#)
- [API's Brief](#), August 29, 2008. (12 megabytes)
 - [Notice of Supplemental Authority](#)
- [Order, conditionally taking judicial notice](#), September 5, 2008.
- [Reply Brief](#), September 9, 2008.
- [API Request for Oral Argument](#), September 9, 2008.
- [Notice of Oral Argument \(Dec. 16, 2008, at 10:15 AM\)](#), October, 28, 2008.
- [Emergency Motion to Enforce Stay and Non-Emergency Motion for Sanctions](#), December 1,

2008.

- Update to Emergency Motion to Enforce Stay, December 2, 2008
- Second Update to Emergency Motion to Enforce Stay, December 3, 2008
- Third Update to Emergency Motion to Enforce Stay, December 3, 2008
- API Motion to Supplement Record, December 3, 2008.
- API Opposition to Emergency Motion to Enforce Stay and Non-Emergency Motion for Sanctions, December 4, 2008.
- Opposition to API Motion to Supplement Record, December 5, 2008.
- Order Denying Motion to Enforce Stay, December 17, 2008
- Order Denying Motion for Contempt Sanctions, December 17, 2008.
- Order to Supplement Record, December 19, 2008.

Superior Court Case 3AN 08-1252 PR

- Forced Drugging Petition, October 20, 2008
- Forced Drugging Hearing Notice, October 20, 2008
- Limited Entry of Appearance, October 21, 2008
- October 21, 2008, Transcript.
- Motion to Dismiss Forced Drugging Petition, October 22, 2008
- API Motion to Dismiss Forced Drugging Petition, October 24, 2008
- Order Dismissing Forced Drugging Petition, October 27, 2008
- Forced Drugging Petition (Second), October 27, 2008
- Scheduling Order, October 27, 2008
- Motion to Vacate Scheduling Order, October 28, 2008
- Motion for Summary Judgment, October 28, 2008
 - Notice of Filing Written Testimony
 - Affidavit of Loren Mosher, MD
 - Transcript of Loren Mosher, MD testimony
 - Transcript of Sarah Porter testimony
 - Transcript of Grace E. Jackson, MD testimony
 - Affidavit of Robert Whitaker
 - Affidavit of Ronald Bassman, PhD
 - Affidavit of Paul Cornils
 - Affidavit of Grace E. Jackson, MD (May 16, 2008)
 - Affidavit of Grace E. Jackson, MD (May 20, 2008)
 - Excerpt of Record from S-13116 (100 megabytes)
 - Notice Re: Judicial Notice Appendix, filed August 7, 2008
 - Judicial Notice Appendix from S-13116(114 megabytes)
- Transcript of October 28, 2008, Status Conference.
- Order Vacating October 29, 2008, hearing date, October 28, 2008.
- Addendum to Motion to Dismiss Forced Drugging Petition, October 28, 2008.
- API Witness List, October 29, 2008
- Motion to Hold Hearing at Court House, October 29, 2008
- Motion to Dismiss .838 (Emergency Drugging) Count, October 30, 3008
- Opposition to Motion to Hold Hearing at Court House, October 30, 2008
- API Opposition to Motions to Dismiss and Summary Judgment, October 31, 2008. (13.5 Megabytes)
- Reply to Opposition to Motion to Hold Hearing at Court House, October 31, 2008

- API Motion to Quash Discovery, October 31, 2008
- Respondent's Preliminary Witness List, October 31, 2008.
- Respondent's Reply to API's Opposition to Motion to Dismiss and for Summary Judgment, November 3, 2008.
- Respondent's Opposition to Motion to Quash, November 3, 2008.
- Respondent's Opposition to Motion for Protective Order, November 3, 2008.
- Transcript of November 3, 2008, Status Conference.
- API Amended Witness List, November 4, 2008.
- API Motion in Limine (Limit Testimony) including use of the term "Forced Drugging, November 4, 2008.
- API Motion to Strike deposition testimony of Candice Siciliano, Ronald Adler, and Dr. Kahnaz Khari, M.D., November 5, 2008.
- API Motion for Protective Order preventing the dissemination of deposition and hearing transcripts and ordering the confidentiality of all documents pertaining to this case, November 5, 2008.
- November 5, 2008, Transcript.
- API Motion for Reconsideration denying API's motion to quash notices of deposition, November 6, 2008.
- API Objections to Prior Testimony, November 7, 2008.
- November 6, 2008, Transcript
- Respondent's History, November 10, 2008.
 - Respondent's History Appendix. (92 Megabytes)
 - Excerpt of Record from S-13116 (100 megabytes)
 - Judicial Notice Appendix from S-13116(114 megabytes)
- November 10, 2008, Transcript
- Response to Objections to Prior Testimony, November 14, 2008
- November 17, 2008 Transcript
- November 18, 2008, Transcript
- API History of Medical Care, November 18, 2008.
- Response to API History, November 19, 2008.
- Motion to Require Service on PsychRights, November 24, 2008.
- Public Defender Agency Opposition to Expedited Consideration of Motion to Require Service on PsychRights, November 24, 2008.
- Order Granting Forced Drugging Petition, November 25, 2008.
- Motion to Modify Stay and for Stay Pending Appeal, December 1, 2008.
- Motion for Expedited Consideration of Motion to Modify Stay and for Stay Pending Appeal, December 1, 2008.
- Order Denying Expedited Consideration of Motion to Modify Stay and For Stay Pending Appeal, December 1, 2008.
- Order Extending Stay for Two Days, December 2, 2008
- Opposition to Motion Requiring Service on Respondent's Counsel and Motion for Representation Hearing and, December 3, 2008.
- Motion for Clarification of Order to Allow "Emergency" Drugging, December 3, 2008.
- Motion for Expedited Consideration of Motion for Clarification, December 3, 2008.
- Order Granting Expedited Consideration, December 3, 2008.
- Order Granting Motion for Clarification of Order to Allow "Emergency" Drugging, December 3, 2008.
- Motion to Stay Police Power Forced Drugging Order, December 6, 2008.
- API Opposition to Motion to Modify Stay and for Stay Pending Appeal, December 8, 2008.
- API Joinder in Motion for Representation Hearing, December 9, 2008.
- Order and Second Clarification of Stay, December 10, 2008

- [OPA Entry of Appearance/Motion to Intervene](#), December 11, 2008.
 - [OPA Motion\(s\) for Reconsideration and to Remove PsychRights as Mr. Bigley's Attorney](#), December 11, 2008. (5 Megabytes)
 - [Order Denying Reconsideration](#), December 16, 2008.
 - [Opposition to OPA's Motion to Remove PsychRights as Mr. Bigley's Attorney](#), December 22, 2008.
 - [Reply re: Motion to Remove PsychRights as Mr. Bigley's Attorney](#), January 2, 2008.
 - [Motion to Clarify Status of November 20 & 21, 2008, Hearings](#), January 5, 2008.
 - [Order Denying Motion to Remove PsychRights as Mr. Bigley's Attorney](#), January 5, 2008.
-

Supreme Court Case No. S-13353

- [Notice of Appeal](#), December 1, 2008
 - [Points on Appeal](#), December 1, 2008
 - [Emergency Motion for Stay of Order Authorizing Forced Psychiatric Drugging](#), December 6, 2008.
 - [Public Defender Agency Motion for Stay of Appeal Pending Outcome of Representation Hearing in Superior Court](#), December 9, 2008.
 - [API Opposition to Emergency Motion for Stay](#), December 11, 2008.
 - [Office of Public Advocacy's \(Public Guardian\) Opposition to Emergency Motion for Stay of Appeal](#), December 11, 2008.
 - [Update to Emergency Motion for Stay](#), December 12, 2008.
 - [Order Denying Motion for Stay of Forced Drugging Pending Appeal](#), December 17, 2008.
 - [Opposition to Motion to Stay Appeal](#), December 18, 2008.
 - [Order Denying Stay of Appeal](#), December 29, 2008.
 - [Public Defender Agency Motion to Withdraw](#), January 7, 2008.
-

Supreme Court Case No. S-13383 (Cross Appeal in S-13353)

- [API Cross-Appeal](#), December 24, 2008.
-

PsychRights®

Law Project for
Psychiatric Rights

Subject: Important Alaska Supreme Court Stay Order

From: Jim Gottstein

Date: Fri, 23 May 2008 18:07:28 -0800

Hi Everyone,

You may know that PsychRights has been battling with the Alaska Psychiatric Institute (API) over its forced drugging of Mr. Bill Bigley since December of 2006. An out of date narrative is at <http://psychrights.org/States/Alaska/CaseSeven.htm>. To summarize, API has been drugging him against his will since 1980 in at least 75 admissions. Until last week, the hospital never got to a forced drugging hearing when PsychRights was representing him.

In last week's trial, through the tremendous written testimony of Robert Whitaker, Ron Bassman, Sarah Porter, and even Loren Mosher of blessed memory, and through the written and live testimony of Dr. Grace Jackson, we put on what I think is fair to say a compelling case against the forced use of these drugs in general, and Risperdal Consta in particular, which was the drug the hospital intended to inject into Mr. Bigley against his wishes. There was unrebuted evidence about the tremendous harm the drugging causes, including brain damage, as well as the physical harm, and how they prevent people from recovering. The hospital's response was basically "that's what we do." In other words, "that's the standard of care."

On Monday, the trial court ruled against us and in response to our motion for a stay pending appeal, gave us just 48 hours to get a stay from the Alaska Supreme Court. What a stay means is that the order allowing the forced drugging is put on hold and the hospital can't act on it. We filed an Emergency Motion for Stay Pending Appeal on May 20th and API asked for and was given more time to respond on the condition they not drug Mr. Bigley in the interim. Today after considering our motion and API's opposition, the Alaska Supreme Court granted our Emergency Motion for Stay Pending Appeal.

I am writing because I think this Order from the Alaska Supreme Court is potentially very important in potentially forcing the hospital to use means other than forced drugging. It is also very important in establishing the right to prevent forced drugging during the pendency of an appeal when a trial court orders that the forced drugging is allowed. As we know, especially for people who haven't been on these drugs for a long period of time, just allowing them to avoid the drugs for such a period of time can be crucial in allowing them to get through a bout of psychosis and recover.

The whole set of documents, including transcripts are available at <http://psychrights.org/States/Alaska/CaseSeven.htm#08-00493>

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President/CEO

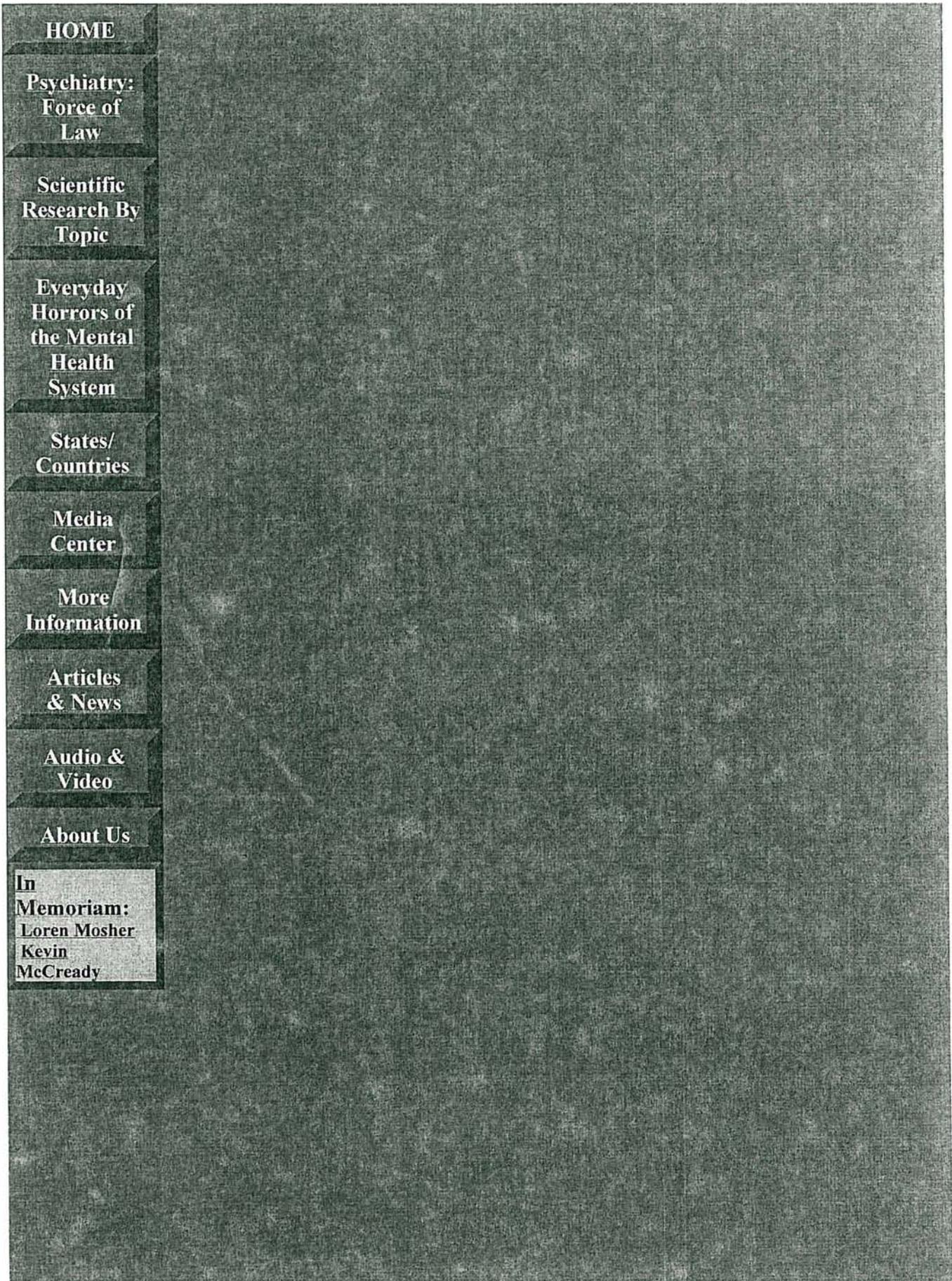
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The Law Project for Psychiatric Rights is a public interest law firm devoted to the defense of people facing the horrors of forced psychiatric drugging. We are further dedicated to exposing the truth about these drugs and the courts being misled into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

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