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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 BIGLEY,)
)
Respondent.)

Case No. 3AN-08-1252 PR

**OPPOSITION TO RESPONDENT'S
MOTION TO HOLD HEARINGS AT COURTHOUSE**

The Department of Health and Social Services, Division of Behavior Health, Alaska Psychiatric Institute (API), through the Office of the Attorney General, opposes the respondent's Motion for Expedited Consideration: Re: Motion to Hold Hearings at Court House and Certifications of Counsel.

A. The Physical and Mental Health of Respondent is the Primary Concern When Determining Location of Hearings.

Alaska Statute 47.30.735(b) states that 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." API is not requesting that Mr. Bigley be denied the right to an open hearing, but API is requesting that Alaska statutes, requiring that Mr. Bigley's health and welfare be the only considerations for location, be adhered to.

Mr. Bigley's physical and mental health is of the utmost concern to the staff at API. Attached to this opposition is an affidavit from Dr. Lawrence J. Maile, Ph.D., who has been working with Mr. Bigley since his admission to API on October 20, 2008, and since the hospital was granted the 30-day petition for hospitalization. It is Dr. Maile's clinical opinion that Mr. Bigley is currently psychiatrically unstable, and that outside of API, API staff cannot attend to Mr. Bigley's

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1
2 needs.¹ Transportation downtown also poses a risk to Mr. Bigley and excessive stress.
3 The physical and mental health of Mr. Bigley are the concerns mandated by statute as
4 well.

5 **B. The Hearing Being Held at API is Still an Open Hearing and Timely
6 Notice to the Public May Still Be Given.**

7 API will accommodate any persons wishing to participate in the hearings.
8 API is a public facility. Other than requiring visitors to sign in for accountability, and
9 restricting what the public may bring into the psychiatric units of the hospital, API does
10 not restrict access to anyone.

11 Alaska Statute 47.30.735(b)(1)(3) gives the respondent the right to have
12 the hearing open or closed. If Mr. Bigley indeed wishes for his hearing to be held open
13 to the public, his wishes will be supported by API—at API. Open means the public is
14 able to attend, not that there will be the public in attendance. If a person wishes to
15 participate in the proceedings, they may do so, and API will ensure they are granted
16 access to the hearing.

17 API is open to the public, and is at the service of the public. API denies
18 access to no one, unless there is a serious safety concern. The layout of API is such that
19 the public may enter the foyer, sign in at the communications desk, have full access to
20 the “Winter Garden” where there is a coffee shop and sitting area, open to the public.
21 Through the “Winter Garden,” access to the units may only be granted by API staff, or
22 by API security cards. However, the courtroom created especially to facilitate active
23 participation by all patients subject to court proceedings, is not located on any unit, but
24 rather is located along the corridor where the public is allowed, while still maintaining
25 the safety, dignity, and integrity of the patients at API.

26 Any person wishing to participate in the medications petition hearing for
Mr. Bigley will not be restricted by API.

¹ See attached exhibit, Affidavit of Lawrence J. Maile, Ph.D. October 29, 2008.

1
2 **C. Conclusion**

3 API is a public facility, where a public hearing may be held. Forcing the
4 hearing to be held downtown, away from Mr. Bigley's care facility and staff, not only
5 puts Mr. Bigley's mental and physical well-being at risk, but also is detrimental to
6 API's other patients who require care and adequate staffing. Because Mr. Bigley's
7 physical and mental health are the primary concern of API, and AS 47.30.735(b)
8 requires that the physical and mental health be the only considerations in determining
9 the location of the hearing, API requests that the motion from respondent be denied and
10 that the hearing be held at API for the benefit of Mr. Bigley, as well as all of the patients
11 of API.

12 DATED: 10/30/2008

13 TALIS J. COLBERG
14 ATTORNEY GENERAL

15 By: 

16 Laura J. Derry
17 Assistant Attorney General
18 Alaska Bar No. NA14011

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In the Matter of the Necessity)
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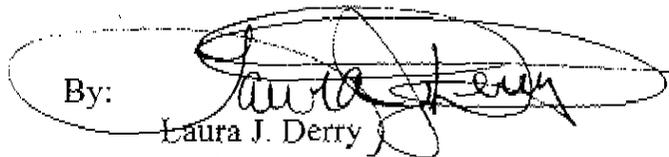
NOTICE OF FILING AFFIDAVIT COPY

The Department of Health and Social Services, Division of Behavior Health, Alaska Psychiatric Institute (API), through the Office of the Attorney General, hereby submits a copy of Dr. Maile's Affidavit with the Opposition to Respondent's Motion to Hold Hearings at Courthouse. The original signed affidavit will be filed as soon as it is received by counsel.

DATED: 10/30/2008

TALIS J. COLBERG
ATTORNEY GENERAL

By:



Laura J. Derry
Assistant Attorney General
Alaska Bar No. NA14011

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Respondent.)

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AFFIDAVIT

STATE OF ALASKA)
THIRD JUDICIAL DISTRICT) ss.

Dr. Lawrence Maile, Ph.D., being first duly sworn upon oath, deposes and says:

1. I am the forensic psychologist working at Alaska Psychiatric Institute. With Dr. Khari, I am treating Mr. Bigley.

2. William Bigley is currently housed on the Taku Forensic Unit at Alaska Psychiatric Institute. He was admitted October 20, 2008, based on deteriorating psychiatric condition, prominent symptoms of psychosis, threatening behavior, and loss of ability to care for himself.

3. Since being admitted to API, professional staff have petitioned for involuntary commitment to mandate Mr. Bigley remain at API until his condition improves. Thirty days were requested for the first term of commitment.

4. In addition to involuntary commitment, permission was sought from the Court for administration of psychotropic medication to reduce symptoms of psychosis so as to facilitate Mr. Bigley's return to the community and to assist in stabilizing him such that he may reside safely in the community.

5. As a result of continuing proceedings related to the request for involuntary administration of medication, Mr. Bigley remains untreated and his condition is unchanged, psychiatrically.

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6. As a result of Mr. Bigley's psychiatric and behavioral instability, he presents a risk to the community in transport to proceedings downtown. He is frequently profane to members of the community and his behavior may easily be interpreted as a threat to those he approaches. API staff are not able to restrain or otherwise restrict Mr. Bigley's movements or interactions with others while outside of API.

7. Transportation of Mr. Bigley, through use of taxis for transportation or through any other means aside from secure transportation with law enforcement personnel, poses a risk to Mr. Bigley, API staff, and members of the community.

Further your affiant saith naught.

Lawrence Simace Lawrence Simace P.L.U.

SUBSCRIBED AND SWORN to before me this 30 day of October, 2008.



[Signature]
Notary Public in and for Alaska
My commission expires: *11/30/08*

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