

In the Superior Court at Anchorage Alaska

Media No.: 3AN6108-203

Judge: W. Morse

Date: Monday, November 17, 2008

Clerk: S. Sawhill

Case Title: IN THE MATTER OF:

Name of Minor(s):

Case Number:

WB

3AN-08-01252PR

Type of Proceedings: Hearing for Medication

Parties Present: Assistant Attorney General:
Atty for William Bigley:

Erin Pohland
Robert Gottstein

Court Orders/Master Recommends: Counsel to contact J. Al. to set up further hearings

Summary of Proceedings:

8:39:29 AM On record
Court
-what do we need to take up b4 cross exam

8:40:22 AM Gottstein
-no nothing to take up b4
-Re: witnesses
-want to call Ms. Basler first

Assistant Attorney General
-Objection to calling Ms. Musante

8:41:18 AM Court questions
8:41:19 AM Gottstein
-there was state brought up something last yr that was inaccurate

8:41:55 AM Assistant Attorney General
-the state objections on relevance and under 804 B1 doesn't met criteria
-this is a entirely different case

8:42:33 AM -his experience with Mr. Bigley
-the affidavit does not??? Inaudible
-affidavit is prior testimony

8:43:20 AM Court
-strike the affidavit and allow

8:43:32 AM Gottstein
-no going to argue with that and Dr. Mosley called for cross

8:43:57 AM Court
-I read most his testimony
-will revisit the testimony if wasn't direct won't allow it

8:45:10 AM Assistant Attorney General
-not specific to this case and medication
Court – overruled call him

8:46:06 AM Court: addresses witnesses
8:46:43 AM **Witness Sworn/Affirmed:**
Ronald Bassman

8:47:13 AM **Cross Examination by Assistant Attorney General**
-I am not a medical Dr. I am a psychologist
-not familiar with standard of care in Ak.
-I can recommend medication for Mr. Bigley

8:48:15 AM -don't specifically have alternative but can set some up
-can I personally provided alternatives no
-some psychiatrist medication can be recommended and some not

8:49:05 AM Witness excused

8:50:55 AM **Witness Sworn/Affirmed:**
Paul Cornill
Cross Examination by Poland
-I do not work at Choices anymore
-I don't know have any medical training
-there are alternative in certain cases

8:52:18 AM -I don't have a relationship w/Mr. Bigley
Exhibit(s) Identified |
-May 2008 time is understanding
-there were none besides API
-no medical providers

8:53:42 AM **Redirect Examination by** Gottstein
-our medical supervisor at the time said whether taking meds or not the Q is if the client following psychiatrist advise

8:55:16 AM **Recross Examination by** Poland
-I have no choices one way or the other

8:55:50 AM **Witness excused**

8:56:31 AM **Witness Sworn/Affirmed:**
Robert Whitaker

8:57:32 AM **Cross Examination by Assistant Attorney General Pohland**
-yes a journalist and not a doctor
-the affidavit isn't my research
-this is what found in research literature
-came in this as a journalist

8:58:47 AM -I don't even no his proposed recommendations

8:59:06 AM **Redirect Examination by** Gottstein

8:59:16 AM Objection, relevance
 Court – overruled
 -I co-founded center watch
 -monthly newsletter and monthly
 -doctors read our publications and psychiatrist
 9:00:14 AM -\$395 a yr and \$295 weekly
 9:00:27 AM **Recross Examination by**
 -we wrote the articles
 -Center Watch focused on the business acts
 -Doctors getting paid watch center getting paid
 -average payment doing a clinical trial
 9:01:26 AM -on the business aspect
 -only time Qs on that is drugs coming up to market for impotence
 -actually studies
 -we were business publication
 9:02:15 AM Witness excused
 9:02:45 AM **Witness Sworn/Affirmed:**
 Susan Mustane
 9:03:05 AM **Direct Examination by Gottstein**
 -I heard Mr. Cornel's testimony
 -Choices have philosophy have a choice
 -medical director is consulting then treating
 9:04:41 AM -work with general medical or psychiatrist
 -we have Mr. Bigley case have worked with him in the pass
 -try to help service that are hard to engage
 -if have enough staff available and work in conjunction to provided wrap around services
 9:06:17 AM -we certainly review
 -if enough funding for support
 -his role not to be physician for everyone
 9:07:29 AM **Cross Examination by** Pohland
 -I wouldn't say a relationship I have met him a few times
 -but not specifically worked with him b4
 -not the issue that would exclude from Choices
 -it would be enough staff or not
 9:08:45 AM -whether staff or other for a team
 -not aware won't work with staff
 -no surprise are medicalinaudible
 -he no longer working with Choices
 9:10:29 AM -Mr. Gottstein is involved in Choices
 -the resources aren't available for him at this time
 -but could be
 -need funding and resources
 -people advocacy for funding
 9:11:36 AM **Direct Examination by** Gottstein
 -we dealt w/him a yr ago
 -on/off 6 months
 9:12:01 AM **Court questions**

-sometimes varied and sometimes every other day engage
-tried to help him get housing and help keep housing very hard
-the funding at the time is limited how many hours
-is a annual cap
-about 200 hrs or something a annual cap
-self paid and sliding scale
9:14:04 AM -we have (inaudible) 2 actually a 3rd one
-recovery coordinator is who interacts
-available for support and case management
9:14:40 AM -have about 8
-max is up to 20 but depends on the person
9:15:48 AM **Redirect Examination by** Gottstein
-yes represented Choices b4 in legal matters
-we have grant funding's
-the grant \$200,000 a yr
9:17:02 AM **Witness excused**
9:18:39 AM **Gottstein**
-take a short break

Court
-will take a break and see how to contact her

Gottstein
-need to ask how to make a international call and bill to me
9:19:34 AM **Off record**
9:28:41 AM **On record**
Court
-if can get the next 24 hrs I am sure cross very brief and can hear tomorrow in my courtroom
-last Friday I got a history of chronology of Mr. Bigley's history
-can I accept
9:31:16 AM **Assistant Attorney General**
-Objection to that unless exclusive history
9:31:54 AM **Court**
-for example what I would consider (reads)
-not interested in arrest
-looking at dates
9:32:30 AM **Assistant Attorney General**
-we can do something exclusively on facts
9:32:44 AM **Court**
-take his document and black on what want excluded
-his history last 6 months and the last case in front of Supreme court
9:33:26 AM **Gottstein**
-I did submit back up document too

9:33:49 AM

Court

-that is what looking at I am just looking at petition and resolved and history
-stip admit/discharge
-give me that tomorrow

Assistant Attorney General

-okay

9:34:34 AM

Gottstein

-arrange a time w/your clerk

9:35:36 AM

Court

-if available at noon that is fine

9:35:55 AM

Gottstein

-prepare a closing

Argument by Assistant Attorney General

9:36:31 AM

-b4 was able to live alone
-could take care of normal needs
-on meds Department of Corrections once
-b4 used voluntarily
-since his medical health treatment has stopped can not do what was doing b4
-can go to stores and banks use to

9:37:36 AM

-he refused all treatment
-and w/o order can only give daily care water/food
-he won't trust people without this care
-he has had 13 bookings w/Department of Corrections and 30 call in's
-he suffers w/o his medication
-he is incapable w/o medication
-he refuses his medication but will do emergency medication

9:39:24 AM

-he is incapable to do things
-he thinks he is Al Pacino of Scarface
-he believes medications are poison and food is poison
-he tries to fire and hire counsel
-denies Native Alaskans
-he is not capable to refuses support
-would his life improve or deteriorate w/o medication

9:40:22 AM

-Q whether medication is needed
-what would be likely outcome
-w/o medication will go back into jail

9:41:14 AM

-there are side effects
-have been evaluated
-the side effects are less harmful then going w/o
-be impossible to help him out

9:43:01 AM

-medication less restrictive to protect him and therapeutic
-taking him jail not best or keep away from place not less restrictive alternative
-need to protect him
-on medication can track again and utilize things he did b4
-can live alone again

9:45:02 AM

-can do what he wants to do

-trying to come together for him and trying to help him
-w/o medication can not help him
-this approach as worked in the pass with him and believe in future too

9:45:51 AM

Argument by Gottstein

-he voluntarily took meds for 2 yrs and API said not working alone and wanted to add meds

9:46:29 AM

-he has been in courtroom here quiet a bit

-fundamental I think this case revolves around if API can provide less intrusive environment

-API has refused to provide non drug alternate

-that is unconstitutional

-have rights to more less intrusive

-after treatment and releases need less intrusive

9:48:33 AM

-very clear if Mr. Bigley accepts med they will accept that even though no court order or treatment

-when changes mine say he is incompetent

-legal matter says competent to grant consent

-we have here un-rebutted this long regime of drugging has caused brain damage and dementia

9:50:42 AM

Court questions

-this coerce is so detrimental

-need to get to the point where he isn't being forced

-need to be up to him if includes medication

-29 yrs of medication not working

9:54:18 AM

-my position medical up to him

-should be non intrusive

-he knows when he wants to take and not take it

-yes he knows if should take meds or not because he has experienced it for almost 29 yrs

-he knows how feel under it

9:55:52 AM

-he chooses not to take now

-would query if API would agree to that

-I think they would insist not competent

9:58:23 AM

-I don't think the meds would increase his capacity

-if given supports asked for can make decisions

-can re-visit in 6 to 9 months

-can function in the community

9:59:34 AM

-w/supports can function in community with supports I proposed

-want to talk about rationales of less intrusive alternatives

-trying to get out of API and system antagonistic

-with a personal attendant would help him

10:01:32 AM

-if they say want to go they the attendants must go and won't and police called can go to API

-if around dangerousness is standard of commitment

-has trouble keeping houses

-police can bring him here then API

-assuming this will fail

10:03:04 AM

-what I am talking about voluntarily API housing last resource

-if lost his housing and can't go to shelters should have the right to say okay I am going to API

-then can eat here

-he looked good today

-can wash his clothes

-housing last resort

10:04:43 AM

-not competent to do trial if this happened wouldn't be a problem

-would be natural consequences

-issue about housing and subsidy

10:06:05 AM -he gets \$10 a day
-to put in certain housing had to take certain drugs
-a lot of his medical goes into housing and then \$10 a day to live
-want settlement to put this all together
-look at Meyers can't drug against his will
-less intrusive if available

10:08:44 AM -if court finds less intrusive and can't drug him and can't just dump him back out
-entitled to less intrusive environment
-that's it

10:09:26 AM Assistant Attorney General
-there hasn't been un-rebutted evidence caused dementia
-if perform MRI can see if damage from meds
-there is generic statements
-is not his decision he is out un-medicated and taken to Department of Corrections

10:10:53 AM -w/o medication cycles out of Department of Corrections and API
-API last resort and state provide all these alternatives there is testimony not possible
-API is not a hotel it exist to treat people
-current cycle what happening is not acceptable
-clearly increased since stopped taking meds

10:12:55 AM -no testimony staffing available
-state/federal authority aren't going to change for this
-proposed are not alternate
-not therapeutic

10:13:41 AM Court
-state will give me what will want for proposed history
-I will decide as quickly as can
-if authorize med have to address existing stay

10:14:22 AM Off record