

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

Not Confidential
per Order of
January 23, 2009

~~*** CONFIDENTIAL ***~~

TRANSCRIPT OF HEARING

BEFORE THE HONORABLE WILLIAM F. MORSE
Superior Court Judge

Anchorage, Alaska
November 21, 2008
10:17 A.M.

APPEARANCES:

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

FOR THE RESPONDENT: Elizabeth D. Brennan, Esq.
Alaska Public Defender Agency
900 West 5th Avenue, Suite 200
Anchorage, Alaska 99501

Page 2

1
2
3 I-N-D-E-X
4
5 PAGE
6 KAHNAZ KHARI, MD
7 Direct Examination by Mr. Friend 13
8 Cross Examination by Ms. Brennan 22
9 Redirect Examination by Mr. Friend 30
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 4

1 I've lost it. Oh, (D), which says, quote, "If a jury
2 trial is not requested, the Court may still continue
3 the hearing at the respondent's request for no more
4 than ten calendar days," end quote.
5 And then -- well, it doesn't really state
6 expressly what happens thereafter. Implicitly under
7 (G), which says, quote, "Until the court issues a
8 final decision, the respondent shall be continued to
9 be treated at the treatment facility unless the
10 petition for a 90-day commitment is withdrawn," and
11 then it talks about if there is a decision made
12 within -- if a decision isn't made within 20 days of
13 the filing, not including extensions due to requests
14 by the respondent, the respondent shall be released.
15 That tells me if Mr. Bigley made a request
16 for a continuance today, that request is essentially
17 an implicit consent to remain committed until the time
18 expires for the court to make a decision.
19 So I wanted to say that, because given my
20 ignorance of those statutes yesterday, I may have
21 forced Ms. Brennan and Mr. Bigley and indeed the
22 State, because the two of you yesterday seemed to be
23 willing to continue, into having a hearing at a time
24 you didn't want to have it. So I'm -- I'm ready to
25 have the hearing today.

Page 3

1
2
3 (Transcriptionist's note: When Mr. Bigley was asked a
4 direct question and responded, this has been
5 transcribed; however, I did not attempt to transcribe
6 Mr. Bigley speaking in the background during the
7 proceedings.)
8 3AN6108-207
9 10:17:20
10 PROCEEDINGS
11 THE COURT: We are on record in
12 3AN-08-01252 PR.
13 Mr. Bigley is not yet present. He is en
14 route. But I wanted to talk to counsel to put on the
15 record the conversation I had prior to going on
16 record.
17 Yesterday we had a hearing to sort of figure
18 out what was going to happen today, and Ms. Brennan,
19 on behalf of Mr. Bigley, asked for a continuance.
20 I was concerned that the 30-day order had --
21 was due to expire today, and was fearful that
22 Mr. Bigley would be released, or at least there would
23 be no authority for continued commitment of him
24 pending the hearing if it was continued.
25 And I have since looked at 47.30.745 -- now

Page 5

1 If, on the other hand, Mr. Bigley wants a
2 continuance for up to ten days, and we can find time
3 to do that given the Thanksgiving holiday, I think you
4 are entitled to that.
5 MS. BRENNAN: Your Honor, I just spoke with
6 Mr. Bigley, and he (indiscernible). He seems pretty
7 intent on (indiscernible) court today.
8 I am also concerned -- I mean, my main
9 concern (indiscernible) yesterday, and I'm just
10 concerned that if we postpone it, it's going to really
11 push toward the ten-day period (indiscernible) next
12 ten days. I think Mr. Bigley wants to have his day
13 today in court.
14 THE COURT: Okay. At the last hearing when
15 we were discussing the petition for involuntary
16 medication, it was announced to -- well, Mr. Gottstein
17 had told Mr. Bigley that the petition for the 90-day
18 commitment had been filed. He was pretty agitated
19 concerning that.
20 So you've seen him this morning. Do you have
21 any concerns about his volatility?
22 MS. BRENNAN: No, not really.
23 (indiscernible) in court with Mr. Bigley before
24 (indiscernible).
25 THE COURT: May I -- we've had four or five

1 days of hearings. And 99 percent of that time he's
2 been surprisingly calm, although he sort of mutters
3 pretty constantly. The only time that he was markedly
4 agitated was it -- I should say he was most agitated
5 at one time. Anyway, Mr. Bigley is now in the
6 courtroom.

7 MR. BIGLEY: (Indiscernible.)

8 MS. BRENNAN: (Indiscernible.)

9 MR. BIGLEY: Who is she?

10 MS. BRENNAN: Linda.

11 UNIDENTIFIED SPEAKER: Linda. We've met
12 before.

13 MR. BIGLEY: (Indiscernible.)

14 THE CLERK: Your Honor, Ms. Brennan needs to
15 speak up, please.

16 THE COURT: You want to sit there,
17 Mr. Bigley? Okay. You can.

18 (Dial tone, followed by silence.)

19 THE COURT: (Indiscernible.)

20 MR. BIGLEY: Who wrote this (indiscernible)?
21 I really want to know.

22 UNIDENTIFIED SPEAKER: (Indiscernible.)

23 THE COURT: And are you prepared to -- ready
24 to go forward?

25 MR. FRIEND: Yeah, Your Honor. I would like

1 to address a preliminary matter first.

2 My understanding -- and I actually don't have
3 a physical copy of the 90-day petition. In speaking
4 with Dr. Khari, my understanding was the request was
5 only due to grave disability and it was intended to
6 include likely to cause harm to himself or others.

7 And so we would just move to amend the
8 petition on the record.

9 THE COURT: (Indiscernible.) On this form,
10 which box do you want checked?

11 MR. FRIEND: We would like this box checked
12 additionally. But it was supposed to be both and
13 (indiscernible).

14 THE COURT: So in paragraph 1, both boxes are
15 checked?

16 MR. FRIEND: Yes.

17 THE COURT: And let me -- the statute
18 indicates that the findings on the 30-day hearing
19 remain in effect and can't be rebutted except for new
20 evidence. Given the, I don't want to say unique, but
21 the fact that we've been holding hearings on the
22 parallel petition for involuntary medication, seems to
23 me that all of that information is part of the record
24 on the petition for the 90 day. And I know -- I know
25 the public defender (indiscernible) on that, but it's

1 difficult to not consider that. So do you have any
2 objection?

3 MS. BRENNAN: We have a problem with that,
4 Your Honor, in that when Mr. Gottstein made his
5 limited appearance just for the medication, it was our
6 understanding that the hearing (indiscernible) and
7 (indiscernible) concerned about it that if the Court
8 is going to take information into that, then
9 (indiscernible), the public defender's office was not
10 present at that hearing.

11 In fact, Your Honor allowed us to leave --
12 allowed us to be excused. And so although I am aware
13 of -- of (indiscernible) seen some of the
14 (indiscernible), I certainly did not attend the
15 hearing and am not familiar with all of the
16 information that (indiscernible).

17 So I think that (indiscernible) Mr. Bigley be
18 (indiscernible) from this hearing (indiscernible) have
19 that information.

20 THE COURT: I think that that material is
21 germane and Mr. Bigley was present and he was
22 represented during those proceedings, and his public
23 defender, appreciating your objection for the limited
24 representation by Mr. Gottstein by topic matter or
25 subject matter, nonetheless was afforded an

1 opportunity to be there, not unreasonably chose not to
2 be there, given I'm sure other things that you had to
3 do.

4 But nonetheless, that information is still
5 relevant to the issues of -- certainly disability.
6 And it also is relevant to the care that he has
7 received in the interim.

8 And I can tell you the most significant fact,
9 and it's not disputed, is that since his commitment
10 for evaluation and then his commitment pursuant to the
11 30-day order, he has been medicated, if I am
12 recalling, only twice, both for short periods of time,
13 emergency medication I think on the 20th and 27th, if
14 I am remembering correctly. He has not been
15 prescribed any medication on a longer-term basis.

16 But at any rate, anything else?

17 MR. FRIEND: I'm not 100 percent sure I
18 followed that. If I'm understanding correctly, are
19 you saying that the issue of medication would be
20 (indiscernible) today, as well?

21 THE COURT: No. I'm not going to address
22 that at all. I'm just saying that the history I have
23 heard about his -- about his history pre-October of
24 '08 had been during the 30-day commitment, as I think
25 all pertinent -- and I don't see any point in

Page 10

1 requiring the State to reiterate that.
 2 MR. FRIEND: I understand. So just statute
 3 (indiscernible) with regards to the two
 4 (indiscernible) points under (indiscernible) the
 5 petition?
 6 MS. BRENNAN: We just want to make it clear
 7 that we certainly don't (indiscernible) Gottstein
 8 (indiscernible) to be (indiscernible).
 9 Also, when I spoke with Mr. Bigley, he does
 10 want to have the court hearing today. (Indiscernible)
 11 entitled to, and one of them would be a jury trial,
 12 which he does not want to do today (indiscernible).
 13 Even though we don't -- co-counsel is
 14 Mr. Gottstein (indiscernible) my office did try to
 15 contact them and (indiscernible).
 16 When we do these cases (indiscernible) is
 17 here, the court is (indiscernible) giving us an
 18 opportunity to have (indiscernible). And so in the
 19 event that (indiscernible) contact us and
 20 (indiscernible), we'd just like to have that ability
 21 to do that in this case (indiscernible) today, but if
 22 we develop new evidence, that we have (indiscernible).
 23 THE COURT: That's fine. (Indiscernible.)
 24 Do you need coffee?
 25 MR. BIGLEY: (Indiscernible.)

Page 11

1 THE COURT: Do you need to have some coffee?
 2 MR. BIGLEY: (Indiscernible.)
 3 THE COURT: We'll proceed, and you come on
 4 back when you get your coffee, okay?
 5 MR. BIGLEY: (Indiscernible) right now
 6 (indiscernible).
 7 THE COURT: (Indiscernible.)
 8 MS. BRENNAN: Your Honor, the (indiscernible)
 9 specifically wants us (indiscernible). It's only a
 10 couple of minutes.
 11 THE COURT: Okay. Just purely for our
 12 planning purposes, the State intended to call --
 13 MR. FRIEND: Dr. Khari.
 14 THE COURT: And just Dr. Khari alone?
 15 MR. FRIEND: Yes.
 16 THE COURT: And does Mr. Bigley know if he'll
 17 be calling any witnesses at this point?
 18 MS. BRENNAN: I don't intend to today, Your
 19 Honor.
 20 THE COURT: Okay.
 21 THE CLERK: Your Honor, I'm having a hard
 22 time hearing Ms. Brennan. She needs to speak up.
 23 THE COURT: I'll move the phone closer to the
 24 witnesses, and let us know if that makes it any
 25 better.

Page 12

1 THE CLERK: Okay. Do you want to stay on
 2 record?
 3 THE COURT: You can go off record.
 4 10:30:24
 5 (Off record.)
 6 10:30:33
 7 THE CLERK: I am on record.
 8 THE COURT: Are we on record?
 9 THE CLERK: Yeah, we're on record.
 10 THE COURT: Thank you. Let's move this
 11 closer to Dr. Khari while she is testifying.
 12 THE CLERK: Hello?
 13 THE COURT: Madame Clerk, can you hear us?
 14 THE CLERK: Yeah, I can.
 15 THE COURT: All right.
 16 If you would stand and raise your right hand,
 17 please.
 18 (Oath administered.)
 19 THE WITNESS: Yes, I do.
 20 THE COURT: You may be seated. If you would
 21 state your first and last name, and spelling both of
 22 them, please.
 23 THE WITNESS: Kahnaz Khari, K-A-H-N-A-Z, the
 24 last name K-H-A-R-I.
 25 THE COURT: You may proceed.

Page 13

1 MR. FRIEND: As a preliminary matter, I would
 2 move for Dr. Khari to be qualified as an expert. It
 3 is my understanding that she has testified previously
 4 in this case and been qualified as an expert.
 5 THE COURT: Is there any objection?
 6 MS. BRENNAN: No, Your Honor.
 7 THE COURT: She is so qualified.
 8 MR. FRIEND: Thank you.
 9 KAHNAZ KHARI, MD
 10 called as a witness on behalf of the State, testified
 11 as follows on:
 12 DIRECT EXAMINATION
 13 BY MR. FRIEND:
 14 Q Dr. Khari, are you familiar with Mr. Bigley?
 15 A Yes, I am.
 16 Q And how are you familiar with him?
 17 A I work with Mr. Bigley on this admission and
 18 also some of his previous admissions at API.
 19 MS. BRENNAN: Objection, Your Honor. This
 20 has to do with this admission at the hospital. We
 21 would object to any evidence of any prior admissions
 22 (indiscernible) prejudicial (indiscernible).
 23 THE COURT: Overruled.
 24 BY MR. FRIEND:
 25 Q Okay. And have you evaluated Mr. Bigley as a

1 result of the current admission?
 2 A Yes. On a daily -- almost a daily basis.
 3 Q And what were Mr. Bigley's presenting
 4 problems upon admission?
 5 A Well, Mr. Bigley (indiscernible) diagnosis of
 6 schizophrenia, paranoid type, which he -- he
 7 (indiscernible) presented some psychotic symptom of a
 8 delusional thought content, such as paranoia
 9 (indiscernible) and grandiose.
 10 Some examples of that is, for example, at
 11 times he believes that he is the president of the
 12 country, or (indiscernible). He feels like he has a
 13 jet he could fly to -- to Cuba.
 14 And actually, yesterday when I was talking
 15 with him, he had a lot of paranoia thinking that I
 16 am -- we are -- we are cutting his body to pieces or
 17 I'm trying to cut his body in pieces and his brain,
 18 and then (indiscernible) been cut.
 19 He -- at times, he's paranoid of eating food,
 20 but he does usually eat more than other people eat.
 21 And along with disorganized thought and speech, like
 22 he has a lot of derailment (indiscernible), cannot
 23 (indiscernible) on one task, cannot really -- easily
 24 distracted, along with -- along with labile behavior
 25 (indiscernible) behavior that you can (indiscernible)

1 language or profanity, yelling, (indiscernible)
 2 threatening. Those are some of the symptoms that he
 3 has been presenting.
 4 But to his credit overall, he has been
 5 (indiscernible) came to the hospital, his symptom was
 6 a lot more intensified. He refused (indiscernible)
 7 emergency medication, one on 20th and one on 27th.
 8 And since then, he actually, even though --
 9 even though he does show marked psychotic symptoms,
 10 he's able to actually maintain to get the direction
 11 easier. And to my surprise, actually both --
 12 (indiscernible) and the end of last week, he would ask
 13 me to talk with me. And I would go in the room and
 14 visit with him, and I would let him express himself.
 15 And he would give me (indiscernible) express
 16 (indiscernible) benefit of discharge planning with
 17 connection with the outpatient provider case
 18 management placement.
 19 So do those (indiscernible), besides what I
 20 have already expressed his psychotic symptoms, that he
 21 has been getting more qualified -- more quality sleep
 22 since the emergency medication.
 23 But yesterday, he did not (indiscernible)
 24 last night. I'm (indiscernible) to getting
 25 (indiscernible) work for the 90-day commitment. My

1 (indiscernible) two, three night quality sleep to have
 2 (indiscernible) as a normal individual population. So
 3 (indiscernible), he didn't have any symptoms from
 4 (indiscernible) behavior (indiscernible) get more
 5 escalated as we continue.
 6 Q Okay. And you -- just describe in detail
 7 your observations of him in this most recent
 8 commitment. Would you say that your medical diagnosis
 9 of him is based on what you observed in this current
 10 admission or based on pre-conceived notions from prior
 11 observations of him in past commitments?
 12 A Overall with most of my patient -- of course
 13 every admission is different. I consider how their
 14 mental state is at this hospital at this -- on daily
 15 basis. So most of the information is by
 16 (indiscernible) 90-day commitment is based on his
 17 presenting.
 18 But however, he is -- knowing him from past
 19 has helped me to understand what to (indiscernible)
 20 and to see his -- to see his past history as
 21 (indiscernible) future outcome.
 22 So as (indiscernible), even though I
 23 (indiscernible) knowing him from -- physically and
 24 also from the chart and from review of the record, but
 25 also -- but most aspect of today of coming to this

1 court and requesting (indiscernible) is based on his
 2 presenting (indiscernible) this hospitalization.
 3 Q And -- and his current diagnosis that you
 4 just gave, that qualifies as a mental illness?
 5 A Yes, it does.
 6 Q And would you describe his current condition
 7 as a result of this mental illness as being gravely
 8 disabled?
 9 A Yes.
 10 Q Okay. Can you elaborate at all on that?
 11 What's the basis of that determination that rises to
 12 the level of being gravely disabled?
 13 A Based on the earlier clinical (indiscernible)
 14 that I expressed, that he is not able to have rational
 15 thinking and that the delusion is (indiscernible)
 16 he's -- his presentation, that he's not able to
 17 (indiscernible) behavior, emotion, and feeling, and
 18 making it in a more organized (indiscernible) to be
 19 able to make a rational thinking (indiscernible) to
 20 have (indiscernible) able to have (indiscernible) to
 21 keep himself stable.
 22 From the aspect of gravely disabled, he may
 23 be able to get some basic needs like food and some
 24 shelter, even though that is in danger because in the
 25 community really he is banned from many places. So

1 even -- even that is (indiscernible).
 2 Overall he is not (indiscernible) the change
 3 of the climate in that (indiscernible) at this time, I
 4 have a significant concern how he could keep himself
 5 safe from the (indiscernible) ability to provide some
 6 of those (indiscernible) his needs.

7 And as consequence of that, is I have a
 8 concern that (indiscernible) his psychotic symptom and
 9 delusion that he carried, the intensity of
 10 (indiscernible) and language and threatening behavior
 11 that he may present in the community.

12 He also (indiscernible) himself
 13 unconsciously, not directly wanting to hurt himself or
 14 others, but put himself in a situation that finds
 15 himself (indiscernible) because of his mental illness
 16 and also other in that setting.

17 Q Okay. And so then his -- as a result of his
 18 mental illness, he -- would he be able to attend to
 19 his activities of daily living in the community if
 20 (indiscernible)?

21 A Unfortunately, no. Because the social
 22 interaction (indiscernible) is so -- so destroyed,
 23 unfortunately, he cannot.

24 Q And can you elaborate a little further? You
 25 touched on that he could pose potential risk to both

1 Q Okay. And how do you intend to treat
 2 Mr. Bigley?

3 A The standard of care is providing structure,
 4 provide the support, and in combination with giving
 5 antipsychotic medication.

6 Q Taking the medication aside for a minute,
 7 is -- is there a benefit in treatment without the
 8 medication? Is there a benefit for him being here in
 9 terms of not being, you know, at risk of exposure and
 10 whatnot? Do those -- do those sort of factors play
 11 into his mental well-being?

12 A Well, to some degree.

13 First as I said, for him being in API, he
 14 (indiscernible) to be a prison. And it actually upset
 15 him, agitates him, and he (indiscernible) on a daily
 16 basis continually, and repeatedly he expresses that he
 17 wants to be out of the hospital. So from that aspect,
 18 he really feels like we have violated his freedom.

19 And plus (indiscernible) bringing medication
 20 into the picture is study have shown that they
 21 continue to deteriorate and the baseline of their
 22 functioning is going to continue to decline.

23 Q Okay. And is the treatment that you
 24 proposed, in terms of medication, is that -- and you
 25 know, the other aspects of his treatment here, such

1 himself and others.

2 A Yes. Well, from the -- let's start from the
 3 (indiscernible).

4 Again, (indiscernible) not having rational
 5 thought, not understanding (indiscernible) and the
 6 setting of the safety in the city, that he could just
 7 easily walk into the traffic, not understanding the
 8 danger he make to himself.

9 And he may not gauge the -- the weather
 10 condition right now, just, you know, find himself in
 11 (indiscernible) night and not get himself to a safe
 12 place.

13 And due to these psychotic symptom may show
 14 some (indiscernible) and others might not understand
 15 (indiscernible), and from that aspect cause himself to
 16 danger by getting very victimized, you know,
 17 (indiscernible) by others. And --

18 Q And in addition to posing a risk to himself
 19 or others from, you know, an isolated incident like
 20 walking out in traffic or something of this sort,
 21 would he be able to -- would he be putting himself at
 22 risk by not being able to feed himself or with it now
 23 getting very cold out, is there a risk of -- of him
 24 being susceptible to exposure of the elements?

25 A Yes, very much.

1 as, you know, I assume you have one-on-one counseling,
 2 group, things like that, is that likely to be a
 3 benefit to Mr. Bigley? Will that improve his
 4 condition (indiscernible) that you attend?

5 A Well, at this point he is not in a state of
 6 mind that he could really benefit from individual
 7 therapy or go to a (indiscernible) program
 8 (indiscernible) stay focus and cannot maintain his
 9 behavior.

10 So unfortunately at this point, he is really
 11 more on a (indiscernible) from the aspect of being one
 12 to one (indiscernible) out of his bed and --

13 Q Yeah. And actually, let me rephrase the
 14 question. I don't think I was very clear.

15 I meant is the totality, the whole, not
 16 individual parts of the treatment plan that you
 17 intend, is that likely to benefit Mr. Bigley,
 18 including the medication, including monitoring meals,
 19 and group therapy, the whole -- the totality of the
 20 treatment plan? Is that likely to benefit him?

21 A Yes, it does.

22 Q Okay. And are there any less-restrictive
 23 alternatives available for -- appropriate to
 24 Mr. Bigley at this time than your -- either your
 25 treatment plan or being involuntarily committed, such

1 as living in an assisted-living home or with friends
2 or relatives or --

3 A Not (indiscernible) time. Again, he actually
4 (indiscernible) or many facilities (indiscernible)
5 bridges.

6 So there's (indiscernible) even though
7 (indiscernible) right now, he is -- his presentation
8 is at a point that many facility would not even
9 (indiscernible).

10 Q Okay. So there are no less-restrictive
11 alternatives at this time?

12 A (No audible response.)

13 MR. FRIEND: I have no further questions at
14 this time.

15 KAHNAZ KHARI, MD
16 testified as follows on:

17 CROSS EXAMINATION

18 BY MS. BRENNAN:

19 Q Dr. Khari, you stated in your testimony that
20 Mr. Bigley does not --

21 MS. BRENNAN: Can you (indiscernible)?

22 BY MS. BRENNAN:

23 Q -- that Mr. Bigley does not want to be here
24 at API?

25 A Yes.

1 Q And that he is unhappy about being here; is
2 that correct?

3 A (No audible response.)

4 Q And he is -- he is in a very secure unit; is
5 that correct?

6 A Yes.

7 Q And that is the Taku unit that is the most
8 restrictive?

9 A Yes.

10 Q Okay. And basically it's a unit with a lot
11 of locks on the doors?

12 A Yes. But not (indiscernible) does have a
13 lock.

14 Q And part of your -- the concern of the
15 hospital is that Mr. Bigley has been angry?

16 A Yes.

17 Q But if a person is here against their will
18 and is being locked up in a very restrictive unit,
19 isn't it normal to be angry at that situation?

20 A Yes. I also want to add, it is
21 (indiscernible) understand (indiscernible), Mr. Bigley
22 (indiscernible). But also (indiscernible), and
23 doesn't really have rational thought and cannot keep
24 himself safe in another setting.

25 Q But since you've been here on the unit, in

1 the past there's been concern about Mr. Bigley's
2 weight; is that correct?

3 A Yes.

4 Q But his weight is fine right now; is that
5 correct?

6 A He has maintained his (indiscernible), yes.

7 Q So -- and he's eating food; is that correct?

8 A He's (indiscernible).

9 Q Okay. But for the most part, when the food
10 is served to him, he's eating without any complaint or
11 problems?

12 A No. But there are times, as I said,
13 (indiscernible) much safer than (indiscernible) other
14 people have eaten the same food when he
15 (indiscernible).

16 Q But the bottom line is, for the most part, he
17 is eating?

18 A Yes.

19 Q Okay. And he's taking care of his hygiene;
20 is that correct?

21 A With the support, yes.

22 Q Okay. And it looks like he's gotten his hair
23 cut recently and is looking good?

24 A Yeah.

25 Q And Mr. Bigley has a guardian; is that

1 correct?

2 A Yes.

3 Q Okay. And has the guardian been in contact
4 with the hospital?

5 A Yes.

6 Q Okay. And a guardian's job is to assist
7 Mr. Bigley in the outside; is that correct?

8 A Yes.

9 Q And then a guardian is supposed to assist
10 with housing; is that correct?

11 A Yes.

12 Q And the guardian is supposed to assist with
13 making sure that he has money; is that correct?

14 A Yes.

15 Q And the guardian is supposed to assist in
16 making sure he has food; is that correct?

17 A Yes.

18 Q Okay. And so many other services that you
19 are providing him at the hospital, is that something
20 the guardian can do in the community, is that correct,
21 in making sure he has a place to live and food to eat;
22 is that correct?

23 A It is correct. But however, he can
24 (indiscernible) state of (indiscernible) able to
25 engage and maintain that (indiscernible) relationship

1 with the guardian. So his guardian is not really
2 successful to be able to provide (indiscernible) in
3 the community.

4 Q Has his guardian visited here during the last
5 30 days?

6 A Yes.

7 Q Okay.

8 A I should actually (indiscernible) met with
9 him individually one to one (indiscernible) upset and
10 agitated.

11 But I do know that since (indiscernible), he
12 was here and he saw the patient (indiscernible).

13 Q Okay. And was there testimony that
14 Mr. Bigley has improved, is that correct, in the last
15 30 days?

16 A Yes. He has made some improvement since
17 (indiscernible).

18 Q And, Dr. Khari, in the past the hospital has
19 never claimed that Bill has been assaultive; is that
20 correct?

21 A I cannot recall (indiscernible). Yes,
22 (indiscernible) physical.

23 Q And Mr. Bigley hasn't been admitted to
24 (indiscernible) say assaultive conduct on the ward in
25 the past 30 days; is that correct?

1 A No (indiscernible).

2 Q And so the hospital's concern is that
3 Mr. Bigley might get released and be in the community,
4 and someone might misinterpret his actions and
5 therefore they might hurt or victimize Mr. Bigley?

6 A Well, that is not (indiscernible) is that the
7 (indiscernible) does have active psychotic symptoms
8 and he is (indiscernible) not able to really maintain
9 any rational thought.

10 Q (Indiscernible) concern is that you are
11 concerned Mr. Bigley might go out and be
12 misinterpreted, and somebody else might do something
13 (indiscernible); is that correct?

14 And so you're basically (indiscernible)
15 Mr. Bigley stay in the hospital -- the concern is that
16 Mr. Bigley has to stay in a hospital based on someone
17 else's possible conduct?

18 A No. But also -- not just on that. Also
19 based on what (indiscernible) himself and not be able
20 to really have any (indiscernible) with him trying to
21 engage him through the outpatient care that he needs.

22 He is not able to -- through his psychotic
23 symptoms, he's not able to put them together to
24 (indiscernible) plans.

25 Q And when Mr. Bigley came to the hospital, he

1 didn't have any frost bite or anything like that, did
2 he?

3 A He did not.

4 Q And did he have any physical symptoms or
5 conditions based on exposure or anything like that?

6 A No, he did not.

7 Q Okay. And most of the staff here at API like
8 Mr. Bigley; is that correct?

9 A Yes. Because they know that when
10 Mr. Bigley -- when he is more stable, he is really a
11 gentleman, likes to socialize and likes to engage with
12 people, and very likeable.

13 Q And so he's actually -- he can be quite
14 popular here at API; is that correct?

15 A Yes. But also want to add that the staff are
16 aware of the mental illness and (indiscernible).

17 Q And (indiscernible) contacted any
18 organizations (indiscernible) --

19 MS. BRENNAN: Bill, I'm trying to talk.

20 BY MS. BRENNAN:

21 Q Has the hospital contacted any organizations
22 such as Choices to see if they can provide an
23 alternative for Mr. Bigley in the community?

24 A I think that has been (indiscernible). But
25 however (indiscernible) has been contacted. Case

1 management is coming on a regular basis trying to
2 engage with him, and they haven't been successful yet.

3 Q And has any alternative -- are you aware of
4 what Henry House is here in Anchorage?

5 A I heard about it, but I cannot -- I can't
6 remember the setting of (indiscernible).

7 Q It's a house -- it's housing for mentally ill
8 people, which they can come and go and have a place to
9 stay.

10 A Okay.

11 Q Is that something that you think Mr. Bigley
12 would benefit from?

13 A Well, I (indiscernible) more information on
14 that and get the guardian support, because the
15 guardian is to support that.

16 But again, the hospital is open to any
17 placement that Mr. Bigley agrees. But he needs to be
18 in a (indiscernible) more manageable (indiscernible)
19 facility would accept him and he would not, you know,
20 (indiscernible) facility.

21 Q And can you think of any other positive
22 attributes that Mr. Bigley has?

23 A Well, as I said, he (indiscernible) very
24 social (indiscernible) different when he is stable.

25 MS. BRENNAN: I don't have any other

Page 30

1 questions.
2 THE COURT: (Indiscernible.)
3 MR. FRIEND: Yeah. Just a few.
4 KAHNAZ KHARI, MD
5 testified as follows on:
6 REDIRECT EXAMINATION
7 BY MR. FRIEND:
8 Q So is the fact that Mr. Bigley is eating food
9 and has hygiene seems to be reasonable -- or with
10 limited assistance, does that necessarily mean that
11 he's not gravely disabled?
12 A No.
13 Q Okay. So it could mean that he's not
14 (indiscernible) self or others?
15 A No.
16 MS. BRENNAN: Objection, leading questions.
17 THE COURT: Sustained.
18 BY MR. FRIEND:
19 Q And in your opinion, if Mr. Bigley was with a
20 guardian 24 hours a day, would that -- would that
21 affect his ability -- or would that affect whether or
22 not he was gravely disabled?
23 A (Indiscernible.)
24 MR. FRIEND: I have no further questions.
25 THE COURT: Any recross?

Page 31

1 MS. BRENNAN: No, Your Honor.
2 THE COURT: Any additional witnesses?
3 MR. FRIEND: No, Your Honor.
4 THE COURT: Any (indiscernible) Mr. Bigley?
5 MS. BRENNAN: Not today, Your Honor.
6 THE COURT: Well, I conclude that
7 (indiscernible) I think that Mr. Bigley is not likely
8 to hurt other people, nor is he likely to hurt
9 himself, in the sense of suicidal gesture or
10 self-injury type things -- or self-inflicted injury,
11 but is vulnerable, unless he is -- unless his
12 condition is treated to environmental conditions
13 during the winter with the lack of shelter and his
14 interactions with other people who might overreact.
15 And also his interactions with traffic. I do
16 think that that is a significant risk for him, given
17 his episodes recently of being out in the street
18 ignoring traffic. (Indiscernible) however, he is
19 gravely disabled, by virtue of his schizophrenia.
20 And (indiscernible) testimony, he can't --
21 his judgment is significantly impaired. His reasoning
22 is (indiscernible) behavior, while not particularly
23 extreme, is disengaged with (indiscernible).
24 If you try to interact with him, it is
25 difficult to do that. He has (indiscernible) of

Page 32

1 delusions or self-absorbed talking, and occasionally
2 that is (indiscernible) incapable of functioning in
3 the community and it makes it impossible for him in
4 his current situation to live safely outside of a
5 controlled environment, namely API.
6 So I find that he meets the criteria for
7 gravely disabled under 47 (indiscernible) 915(7), as
8 modified by whether (indiscernible).
9 Anything further?
10 MR. BIGLEY: (Indiscernible) today
11 (indiscernible)?
12 THE COURT: No, not today.
13 MR. BIGLEY: Oh, that would have been Monday.
14 (Indiscernible.)
15 MS. BRENNAN: (Indiscernible.)
16 MR. BIGLEY: That's all right. I will
17 testify. I will testify. (Indiscernible), you got
18 nothing on me.
19 MS. BRENNAN: (Indiscernible). Come on.
20 MR. BIGLEY: That's fine. You
21 (indiscernible). That's fine. Grab me
22 (indiscernible). I (indiscernible) that shit.
23 (Indiscernible.) Don't grab me.
24 MS. BRENNAN: No, I'm not going to grab you.
25 MR. BIGLEY: (Indiscernible) know what I'm

Page 33

1 doing. (Indiscernible) same thing (indiscernible).
2 MS. BRENNAN: Come on. Let's go.
3 MR. BIGLEY: (Indiscernible.)
4 MS. BRENNAN: (Indiscernible.)
5 MR. BIGLEY: (Indiscernible) out on the
6 fucking street.
7 UNIDENTIFIED SPEAKER: (Indiscernible.)
8 THE CLERK: Were you ready to go off record?
9 Is anybody there? Are you ready to go off record?
10 UNIDENTIFIED SPEAKER: Yes. Everyone left.
11 THE CLERK: Okay. Thanks.
12 UNIDENTIFIED SPEAKER: Sorry. I apologize.
13 (Indiscernible.)
14 THE CLERK: Okay. Thanks. Bye.
15 (Off record.)
16 10:59:38
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

TRANSCRIBER'S CERTIFICATE

I, Jeanette Blalock, hereby certify that the foregoing pages numbered 1 through 33 are a true, accurate, and complete transcript of proceedings in Case No. 3AN-08-1252 PR, In the Matter of the Necessity for the Hospitalization of William S. Bigley, Hearing held on November 21, 2008, transcribed by me from a copy of the electronic sound recording, to the best of my knowledge and ability.

Date Jeanette Blalock, Transcriber

1
2