

DEPARTMENT OF LAW
OFFICE OF THE ATTORNEY GENERAL
ANCHORAGE BRANCH
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ANCHORAGE, ALASKA 99501
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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

MOTION FOR CLARIFICATION OF ORDER

The State of Alaska, Alaska Psychiatric Institute (“API”), by and through the Office of the Attorney General, hereby moves for clarification of this Court’s order of November 25, 2008 (“the order”), granting the administration of court-ordered medication and 90-day commitment for Respondent William S. Bigley (“Mr. Bigley”). Specifically, given the conclusions reached in the order regarding Mr. Bigley’s mental health status, Mr. Bigley’s continued instability and commitment at API, and the stay in place for this order, API respectfully requests that this Court clarify the order to allow for the administration of emergency medication under the guidelines of AS 47.30.838.

In his continued commitment at API, Mr. Bigley has not yet stabilized. As noted in the attached affidavits from his treating physician, Dr. Kahnaz Khari, and the Interim Medical Director of API, Dr. Jenny Love, Mr. Bigley exhibits at times self-harming behaviors or violent tendencies.¹ When Mr. Bigley exhibits such behaviors, the medical staff at API may evaluate him and determine that the administration of emergency medication is medically appropriate to prevent significant physical harm to Mr. Bigley or to others. Generally, emergency medication is the standard of care in emergency psychiatric situations.² Thus far in Mr. Bigley’s most-recent commitment,

¹ See Affidavit of Dr. Kahnaz Khari (“Khari Affidavit”), attached at Exhibit 1, and Affidavit of Dr. Jenny Love (“Love Affidavit”), attached at Exhibit 2.

² See Love Affidavit.

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2 recent commitment, emergency medication has been administered three times.³ Under
3 AS 47.30.838(c), API's staff may administer emergency medication no more than three
4 times without court approval under AS 47.30.839. API filed for and was granted
5 approval for the administration of medication by order of this Court on November 25,
6 2008. Due to the stay also issued in the order, however, API may not administer this
7 medication to him until December 17, 2008. As a result of the stay and the statutory
8 limits on emergency medication, API is unable to administer either the medication
9 ordered by this Court or further dosages of emergency medication should Mr. Bigley
10 become a danger to himself or others.

11 As noted in the order, if Mr. Bigley "...were released from API without
12 having first been stabilized with psychotropic medication, he would not be able to care
13 for himself." Mr. Bigley has not yet achieved a level of stability that would allow for
14 release from API, and has exhibited a variety of psychotic behaviors.⁴ Given
15 Mr. Bigley's current commitment to API, and this Court's own conclusion that without
16 stabilization, he would be unable to care for himself outside of API, API requests
17 clarification of the order to allow for the administration of emergency medication if a
18 crisis period should arise. Such a clarification would allow API to keep Mr. Bigley
19 within the safety of the facility, and would further ensure the safety of Mr. Bigley and
20 others within the hospital. Without such a clarification, API may be left with no choice
21 but to release Mr. Bigley from the hospital, as it cannot continue to house a patient who
22 presents a danger to himself or to others with no appropriate method of treating that
23 patient. At this point, releasing Mr. Bigley would be detrimental to the patient and in
24 opposition to the opinions expressed in the order. As such, API requests that this Court

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³ See Khari Affidavit.

⁴ See Khari Affidavit.

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clarify the order so as to allow the continued administration of emergency medication as necessary and appropriate under AS 47.30.838.

DATED: 12/3/08

TALIS J. COLBERG
ATTORNEY GENERAL

By: *Erin A. Pohland*
Erin A. Pohland
Assistant Attorney General
Alaska Bar No. NA14009

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AFFIDAVIT

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

Dr. Kahnaz Khari, being first duly sworn upon oath, deposes and says:

1. I am William Bigley's ("Mr. Bigley") treating psychiatrist at Alaska Psychiatric Institute ("API").
2. Mr. Bigley is not currently stable enough to be released from API. He is in API under a 90 day commitment order issued on November 21, 2008.
3. Mr. Bigley's behaviors are constantly changing, and have recently included marked psychosis, paranoia, delusions, and violent tendencies.
4. The violent tendencies exhibited by Mr. Bigley include throwing himself up against a wall and threatening API staff and other persons.
5. When Mr. Bigley is exhibiting these violent tendencies, he is a danger to himself and others.
6. Since his commitment to API on October 20, 2008, Mr. Bigley has received emergency medication a total of three times while he was in a crisis situation,

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_____) Case No. 3AN-08-1252 PR

AFFIDAVIT

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

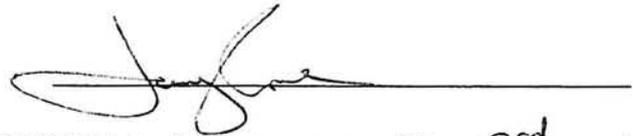
Dr. Jenny Love, being first duly sworn upon oath, deposes and says:

1. I am the Interim Medical Director of Alaska Psychiatric Institute ("API").
2. William Bigley ("Mr. Bigley") at times demonstrates self-harming behaviors that have a high potential for acute and/or permanent damage.
3. These behaviors have included punching the walls with a closed fist multiple times until the hand is deformed from edema (swelling) and possibly resulting in fracture of the hand/finger/forearm bones, and banging his head on the wall to the extent that he becomes dysphoric and possibly causing an acute concussive injury to the brain, multiple episodes of which could contribute to persistent brain damage.
4. Placing Mr. Bigley within a "quiet room" or seclusion does not stop the self-harming behaviors.
5. There are two ultimate avenues to discontinue this behavior: 4 or 5 point restraints or emergency psychotropic medication.
6. Although the 4/5 point physical restraints may allow Mr. Bigley to "calm down" enough to relieve the crisis event, it is well known to have the inherent

risks of further self-injury due to an acute agitated patient straining against the restraints. These injuries (from physical restraints) include, but are not limited to: dislocation of the extremities, fracture of the long bones (humerus, forearm, hands, fingers, foreleg, rarely femur), muscle tissue breakdown possibly resulting in acute kidney failure, hyperthermia possibly resulting in acute neurological damage and rarely death.

7. Emergency psychotropic medication allows the patient to "calm down" enough to relieve the crisis event without the requirement of physical restraints. These are self-limiting injections (as the medication undergoes metabolism and clearance from the body, the effects are decreased/extinguished) and are a rapid means of stabilization and considered standard of care in emergency psychiatric situations

Further your affiant saith naught.



SUBSCRIBED AND SWORN to before me on this 3rd day of December, 2008.



Rose M. Scogin
Notary Public in and for Alaska
My commission expires with office

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2 IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
3 THIRD JUDICIAL DISTRICT AT ANCHORAGE

4 In the Matter of the Necessity)
for the Hospitalization of:)
5)
6 WILLIAM BIGLEY,)
Respondent.)
7)

Case No. 3AN-08-1252 PR

8 **ORDER GRANTING MOTION FOR CLARIFICATION OF ORDER**

9 The Court, having considered petitioner's Motion for Clarification of
10 Order, respondent's opposition, and being fully advised in the premises,

11 IT IS HEREBY ORDERED that petitioner's Motion for Clarification of
12 Order is GRANTED as follows:

13 1. This Court's order of November 25, 2008, is amended to include
14 the following: API may administer emergency medication to Mr. Bigley as necessary
15 and medically appropriate under AS 47.30.838(a)(1) – (a)(2)(C) and AS 47.30.838(b).

16 DATED: _____

17
18 _____
SUPERIOR COURT JUDGE

19 Recommended for approval:

20 _____
21
22 Probate Master

23 Dated: _____
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In the Matter of the Necessity)
for the Hospitalization of:)
WILLIAM BIGLEY,)
Respondent.) Case No. 3AN-08-1252 PR

CERTIFICATE OF SERVICE

I hereby certify that on this day, correct copies of the **MOTION FOR EXPEDITED CONSIDERATION, AFFIDAVIT, ORDER GRANTING EXPEDITED CONSIDERATION, MOTION FOR CLARIFICATION OF ORDER, AFFIDAVIT** of Dr. Kahnaz Khari, **AFFIDAVIT** of Dr. Jenny Love, and the **ORDER GRANTING MOTION FOR CLARIFICATION OF ORDER** in this proceeding were faxed/hand-delivered to:

Public Defender Agency
Fax No. 868-2588

and faxed/mailed to:

Law Project for Psychiatric Rights, Inc.
James B. Gottstein, Esq.
406 G Street, Suite 206
Anchorage, AK 99501
Fax No. 274-9493

Ron Adler
Alaska Psychiatric Institute
2900 Providence Drive
Anchorage, AK 99508
Fax No. 269-7128

Marieann Vassar
3080A Leighton Street
Anchorage, AK 99517
Fax No. 338-0711

Ima Osgood 12/31/08

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