

Subcommittee on Involuntary Commitments and the Involuntary
Administration of Psychotropic Medications
10-20-08

Present:

Judge Morgan Christen – Co-Chair

Judge Peter Michalski – Co-Chair

Judge Craig Stowers

James Gottstein

Elizabeth Russo

Nancy Meade

Doug Wooliver – subcommittee staff

Meeting convened at 3:05 pm

Judge Christen started the meeting by explaining the current, and perhaps temporary, practices that the Anchorage court has adopted in response to the Wayne B. decision.

Audio disks are copied in all involuntary commitment and involuntary medication hearings. Master Duggan continues to preside over all hearings and they continue to be conducted at API. In each case, after the superior court receives Master Duggan's recommendation, the judge listens to the recording prior to issuing an order. Although this practice is being followed, there is some concern that not all judges are noting on their order that they listened to the recording.

These practices may or may not continue. Having superior court judges listen to the entire hearing held before the master means that a 40-minute hearing takes 80 minutes of judicial time. However, having superior court judges preside over the hearings creates considerable logistical problems and may result in even more lost time for judges. One option under consideration is to assign a single superior court judge to go to API to hear all cases.

Judge Christen told the committee that the Wayne B. decision has generated a great deal of discussion between judges and presiding judges across the state and that implementation practices vary by court location. The presiding judges will be meeting during the week of October 26th to discuss the case and its implications.

Because the holding likely applies to all cases heard by a master, one possible approach is to amend CR 53 to reflect the varying levels of interests at stake in the different types of cases handled by masters. Another would be to require superior court de novo review of masters' recommendations only when an objection has been filed. Yet another would limit the order of reference so that some types of cases are no longer handled by masters.

One likely topic for discussion involves CR 53(d)(2) and its directive that a superior court judge in a non-jury case "accept the master's findings unless clearly erroneous."

Judge Christen was open to any other suggestions.

The committee discussed the merits of holding involuntary commitment and involuntary medication hearings at the courthouse as opposed to API. Jim Gottstein expressed his

preference that the hearings be in the courthouse, Judge Christen and Judge Michalski noted the logistical challenges associated with that approach.

Jim Gottstein noted that changes in practice and procedure following the Wayne B. case may result in more objections to master's reports and may also result in fewer petitions being filed. His view on this second point was that, if the petition process became more protective of respondents' rights, fewer petitions would be filed. Other members of the committee did not share this view.

Beth Russo felt that having a superior court judge rather than a standing master preside over a hearing would not change the likelihood that the petition would be filed in the first place. Judge Michalski stated that petitions would become less frequent when more treatment options became available.

Next meeting:

Judge Stowers suggested that Judge Christen designate a set time and date for meetings each month and then others can attend or not, depending on their schedules. Judge Christen said that she wanted to meet with the presiding judges next week before trying to set up the next meeting.