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IN THE TRIAL COURTS FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT

AT ANCHORAGE

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In the Matter of the Necessity for the Hospitalization of W.S.B.,

Respondent.

No. 3AN-07-1064 PR

30-DAY COMMITMENT HEARING

PAGES 1 THROUGH 103

BEFORE THE HONORABLE ANDREW BROWN MASTER

Anchorage, Alaska September 5, 2007 9:14 a.m.

APPEARANCES:

FOR STATE OF ALASKA: Elizabeth Russo Attorney General's Office Human Services Division 1031 West 4th Avenue, Suite 200 Anchorage, Alaska 99501

FOR W.S.B.: James Gottstein 406 G Street, Suite 206 Anchorage, Alaska 99501

Also Present: W.S.B.

	Desc. 0		Dans (
	Page 2		Page 4
1	PROCEEDINGS	1	terms of the proper procedure, but whether you call it
2	3AN2707-162	2	a motion or judgment on the pleadings for example,
3	9:14:26	3	they have failed to allege facts sufficient to support
4	THE COURT: This is the matter of the case	4	their petition. And I brought this up on Friday, and
5	involving the hospitalization for William Bigley, file	5	suggested that, on due process grounds, that they
6	number 007-1064. This is the time set for the hearing	6	you know, that I be notified. And I'm gonna re-raise
7	concerning State's petition petition for court	7	that because there is something in their brief this
8	approval of administration of psychotropic medication.	8	morning that shows that they really should have done
9	And Ms. Russo is here representing the State, and Mr.	9	that, and I was entitled to it. But the basic thing is
10	Gottstein is here representing Mr. Bigley.	10	that they haven't the basic motion.
11	So, any preliminary matters, Ms. Russo?	11	There are two real motions, you know,
12	MS. RUSSO: Yes, Your Honor. Along I just	12	procedurally. A motion for judgment on the pleadings,
13	filed a pre-hearing brief this morning. Part of my	13	based on their allegations and their responses, which
14	pre-hearing brief is a motion to strike all the	14	is in the pre-trial hearing, which could be considered
15	attachments that had been attached to the respondent's	15	an answer. Especially that background section should
16	pre-hearing brief, including the affidavits that were	16	be considered an answer.
17	5	17	And then, of course, there is evidence on all
19	At this point, just many of them, I don't	18	those. And I don't know that there is any
20	believe, are relevant to the issues in this case. If the respondent wishes to introduce them as evidence	19 20	authentication issue with respect to the court
21	-	20	documents. And I had a subpoena out for Dr. Worrall, to bring the records, so that if there is any question
22			about authentication so I think that's proper
23	THE COURT: Okay.		evidence. And, so, then, that would then be a summary
24	MS. RUSSO: And then I understand that there	24	judgment motion, basically. And, so, I think,
	is a witness that Mr. Gottstein has subpoenaed and		technically, that needs to be addressed first.
-	Page 3		
			Page 5
			And then, I really okay and then and
2		2	then in terms of the notice of course, my brief says
3	8	3	that they have to say they have to say, under
			Meyers, what drugs and what combinations they are
	Porter. I don't know how she can provide relevant	5	proposing, in order for a proper analysis to be used. And on Friday I said that they should provide, you
8			Your Honor denied that. But that was a due process
9	· · · · · · · · · · · · · · · · · · ·	9	•
10		10	
11		11	got information about a drug that they're not
12		12	proposing. I don't even know what drugs they're
13	· · · · · · · · · · · · · · · · · · ·	13	proposing, which is what I asked for last Friday.
14		14	
15	-	15	
16	•	16	
17		17	
18		18	directed us to do. That these forced drugging
19	MS. RUSSO: Not at this time, Your Honor.	19	
20		20	that need to be done I'm not trying to delay, but
21		21	they need to be done properly and well considered
22	, , , , , , , , , , , , , , , , , , , ,	22	1
23		23	,
24	1 ,	24	8
25			be done before we can get through you know, all the

	Page 42		Page 44
1	effects. How do you does his medical history	1	"Marron." That clinical observations, you don't need
2	indicate whether or not he's suffered any of the		to go through the Coon standards, but once you get into
3	any side effects from the medication from	3	scientific evidence, that you do. And so I was
4	Risperadone?	4	objecting to the 2% figure, because I think that I'm
5	A Well, he has tardive dyskinesia, which is most	5	entitled to have you know, to give me the basis for
6	likely from the years and years of getting drugs	6	that.
	like Haldol, Prolixin because he's been	7	THE COURT: Okay. Ms. Russo, do you want to
8	getting medications for over 25 years, and those	8	add anything?
9	drugs have a 2% per year accumulative risk of	9	MS. RUSSO: I don't think that this is going
10	tardive dyskinesia.	10	into the Marron and Coon. I don't agree with Mr.
11	MR. GOTTSTEIN: Objection, Your Honor.	11	Gottstein's analysis of this. And quite frankly, I
12	THE COURT: Okay. What's the nature of the	12	don't know I mean, Dr. Worrall's testifying about
13	objection?	13	the fact that Mr. Bigley has tardive dyskinesia from
14	MR. GOTTSTEIN: Well, the issue about	14	previous medications that he had been on for years.
15	scientific information, that I think he should	15	These are not the medications that Dr. Worrall wishes
16	produce the what he relies on for that. My	16	to prescribe for Mr. Bigley at this time. So we're
17	understanding is, it's higher than that, as the reason.	17	talking about Mr. Bigley's past medical history here.
18	But so I object to that.	18	THE COURT: I'm going to let the testimony
19	THE COURT: Okay. Ms. Russo?	19	stand as is, based on my ruling previous ruling.
20	MS. RUSSO: Your Honor, I think Dr. Worrall's	20	Next question?
21	testified about the amount of research and the	21	MS. RUSSO: Okay. Thank you.
22	continuing education and the lectures he does, and	22	Q And, Dr. Worrall, does the Risperadone have
23	that's his understanding, as Mr. Bigley's treating	23	the have a side effect of tardive dyskinesia,
24	physician, as to the amount of risk.	24	as well? Can that
25	If Mr. Gottstein feel that Dr. Worrall's	25	A Yes, it does, but it's considerably less than
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	Page 43		Page 45
1	testimony is inaccurate, he can counter that during his	1	there is no antipsychotic that that has
1 2	testimony is inaccurate, he can counter that during his claims. Dr. Worrall isn't testifying that there is no	1	there is no antipsychotic that that has proven to be free of any risk of tardive
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	P		D
	Page 70		Page 72
1	MR. BIGLEY: See him in person.	1	name, spell your last name, and give a mailing address.
2	MR. GOTTSTEIN: I do I I'm trying to	2	MR. GOTTSTEIN: Certainly. It's Sarah Frances
3	accommodate the I know the practicalities of	3	Porter. The Porter is spelled P-O-R-T-E-R. And the
4	everything, but it just seems like we're in the same	4	mailing address would be 112 Manly Street. That's
5	town, that we ought to be able to do that. I notice	5	M-A-N-L-Y Street, Paraparaumu, which is, P-A-R-A-
6	that, you know, Dr. Worrall has a lot of papers, and I	6	P-A-R-A-U-M-U, New Zealand. And the postal code is
7	haven't had a chance to, you know, look and see what	7	5032.
8	you know, what he's referring to. It's those sorts of	8	THE CLERK: Thank you.
9	things. We might I have a I I'm I'm pretty	9	THE COURT: Yes?
10	sure I'll have some questions on the chart and stuff,	10	MR. GOTTSTEIN: Your Honor, I have a quick
11	and it just seems more, ah	11	administrative matter. I need to get a transcript of
12	THE COURT: Then he's here right now, we're	12	today's hearing prepared, and I was discussing with the
13	going to have to proceed with him and Ms. Porter will	13	clerk how to and there might be a delay to get a
14	have to wait, and she can	14	copy. I was wondering if we could make sure that we
15	MR. BIGLEY: Now, (indiscernible).	15	could expedite getting the CD over so that I can and
16	THE COURT: She could be telephonic Monday.	16	then ask them to expedite getting a copy made for me.
17	MR. GOTTSTEIN: I I wo then, in light	17	THE COURT: Okay. So, like, tomorrow morning
18	of that, then I will withdraw my objection to a	18	some time we can
19	telephonic testimony.	19	THE CLERK: (Indiscernible).
20	MR. BIGLEY: (indiscernible) telephonic.	20	THE COURT: I guess so we would have to
21	THE COURT: So, Doctor, you're excused for now	21	call your office when it's available for pickup.
22	and we will contact you some time Monday. You and, ah, Ms. Russo	22 23	MR. GOTTSTEIN: That's perfect, Your Honor. THE COURT: Okay. And, of course, for Ms.
24	MR. BIGLEY: (Indiscernible).	23	Russo, too.
25	THE COURT:will work out how we'll contact	25	Kusso, 100.
-	Page 71		
			Page 73
1	you now. Thank you.	1	MS. RUSSO: Uh-huh (affirmative).
2	you now. Thank you. All right. So, now	2	MS. RUSSO: Uh-huh (affirmative). MR. GOTTSTEIN: Yeah.
2	you now. Thank you. All right. So, now MR. GOTTSTEIN: Short break?	2 3	MS. RUSSO: Uh-huh (affirmative). MR. GOTTSTEIN: Yeah. THE COURT: Okay. So we'll as soon as my
2 3 4	you now. Thank you. All right. So, now MR. GOTTSTEIN: Short break? THE COURT: We don't really have time.	2 3 4	MS. RUSSO: Uh-huh (affirmative). MR. GOTTSTEIN: Yeah. THE COURT: Okay. So we'll as soon as my office can call tomorrow morning and say it's ready for
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1		Dance Ref		-	Dage 24
1		Page 74			Page 76
		Board. I'm currently doing a course of study	1		alternatives to the use of mainstream medical
2		called the Advanced Leadership and Management in	2		model or medication type treatments.
3		Mental Health Program in New Zealand. And, in	3	Q	And are there people in INTAR that are
4		fact, the reason I'm here is, I won a scholarship	4		actually running those kind of programs?
5		through that program to study innovative programs	5	Α	There are. There's a wide variety of people
6		that are going on in other parts of the world so	6		doing that. And some of them are, also,
7		that I could bring some of that information back	7		themselves, interestingly, have backgrounds in
8		to New Zealand.	8		psychiatry and psychology.
9		I also have personal experience of using	9	Q	I won't go into that. Are there members of
10		mental health services which dates back to 1976	10		INTAR who are psychiatrists?
11		when I was a relatively young child.	11	Α	There are. Indeed. Yes, indeed.
12		What else would you like to know?	12	Q	Do you know do you remember any of their
13	Q	Well, a little bit more. Did you run a	13		names?
14		program in New Zealand?	14	Α	Dr. Peter Stastny is a psychiatrist, Dr. Pat
15	Α	Yes. I set up and run a program in New	15		Brechan (ph), who manages the mental health
16		Zealand which operates as an alternative to acute	16		services in West Cork, Ireland, and also in parts
17		mental health services. It's called the KEYWA	17		of England, as a psychiatrist.
18		Program. That's spelled K-E-Y-W-A. Because it	18		MR. BIGLEY: He's a scientist?
19		was developed and designed to operate as an	19	Α	Yep.
20		alternative to the hospital program that	20	Q	•
21		currently is provided in New Zealand. That's	21		believe that there should be other methods of
22		been operating since December last year, so it's	22		treating people who are diagnosed with mental
23		a relatively new program, but our outcomes to	23		illness than insisting on medication?
24		date have been outstanding, and the funding body	24	Α	
25		that provided with the resources to do the	25		strong theme, in fact, for for that group, and
		Page 75			Page 77
1		program is extremely excited about the results	1		I believe that it's based on the fact that there
2		that we've been able to achieve, with people	2		is now growing recognition that medication is not
3		receiving the service and helping us to assist	3		a satisfactory answer for a significant
4		and seating out more similar programs in New	4		proportion of the people who experience mental
5		Zealand.	5		distress, and that for some people
6	Q	You're a member of the organization called	6		MR. BIGLEY: That's the scientist.
7		INTAR, is that correct?	7	A	it creates more problems than solutions.
8	Α		8	Q	Now, I believe that you testified that you
9		International Network of Treatment Alternatives	9		have experience dealing with those sorts of
10		for Recovery. And I'm also a member of the New	10		people as well, is that correct?
11		Zealand Mental Health Foundation, which is an	11	Α	
12		organization in New Zealand that's charged with	12	Q	
13		the responsibility for promotion of mental health	13		the system for a long time, who is on and off
14		and prevention of mental disability in New	14		drugs, and who might refuse them?
		Zealand.	15	A	
1.0	Q		16		our services across the spectrum. People who
15 16	-	bit what INTAR is about?	17		have had long term experience of using services
16			18		and others for whom it's their first
16 17	A		1		presentation.
16 17 18			19		
16 17 18 19		who are interested in promoting the knowledge	19		
16 17 18 19 20		who are interested in promoting the knowledge about, and availability of access to alternatives	20	Q	And when you say "long term use of services,"
16 17 18 19 20 21		who are interested in promoting the knowledge about, and availability of access to alternatives to traditional and mainstream approaches to	20 21	Q	And when you say "long term use of services," does that include does that mean they need
16 17 18 19 20 21 22		who are interested in promoting the knowledge about, and availability of access to alternatives to traditional and mainstream approaches to treating mental distress. And INTAR is really	20 21 22	Q	And when you say "long term use of services," does that include does that mean they need medication?
16 17 18 19 20 21 22 23		who are interested in promoting the knowledge about, and availability of access to alternatives to traditional and mainstream approaches to treating mental distress. And INTAR is really interested in identifying successful methods of	20 21 22 23	Q	And when you say "long term use of services," does that include does that mean they need medication? Unfortunately, in New Zealand the primary form
16 17 18 19 20 21 22		who are interested in promoting the knowledge about, and availability of access to alternatives to traditional and mainstream approaches to treating mental distress. And INTAR is really	20 21 22	Q	And when you say "long term use of services," does that include does that mean they need medication?

		Page 78			Page 80
1			1		
1 2	A	MR. BIGLEY: (Indiscernible).	1 2		create what might be defined as a crisis, and to
	A	And we're just now beginning to develop			devise strategies and plans for how the person
3		alternatives. They'd offer people real choice	3		might be with the issues and challenges that they
4		and options in terms of what is available instead	4		face in their life.
5		of medication that might enable people to further	5	~	MR. BIGLEY: (Indiscernible).
6		address the issues which are raised by the concerns related to their mental state.	6	Q	Now, you mentioned I think you said that
7	0		7		coercion creates problems. Could you describe
8	Q	And I think I understood you to say that the	8		those kind of problems?
9		program that you run along that line has had very		A	Well, that's really about the fact that these
10		good outcomes, is that correct?	10		growing recognition I think worldwide, but
11	Α	It has. The outcomes to date have been	11		particularly in New Zealand, that coercion,
12		outstanding. The feedback from services users	12		itself, creates trauma and further distress for
13		and from other people working with the services -	13		the person, and that that, in itself, actually
14		- both, peoples families and the clinical	14		undermines the benefits of the treatment that is
15		personnel working with those people has supported	15		being provided in a forced context. And so our
16	0	the approach that we have taken.	16		aiming and teaching is to be able to support the
17	Q	And is and I think you said that, in fact,	17		person to resolve the issues without actually
18		it's been so impressive that the government is	18		having to trample
19		looking at expanding that program with more	19		MR. BIGLEY: (Indiscernible).
20		funding?	20	A	······································
21 22	Α	Indeed. And, in fact, right across New	21	0	physically or emotionally in doing so.
22		Zealand they are now looking at what can be done to create make resources available to set	22	Q	
24			23 24		include people who have been in the system for a
25		up MR. BIGLEY: (Indiscernible).	24	A	long time, right? It does, indeed. Yes.
			25	Π	
		Page 79			Page 81
	Α	more such services in New Zealand.	1	Q	
2	~	MR. BIGLEY: (Indiscernible).	2		coerced for a long time?
3	Q		3	A	, ,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,
		in terms of how that would go along with this	4	~	MR. BIGLEY: She didn't (indiscernible).
5		kind of alternative approach?	5	Q	-
6	Α		6		approach?
		it's it's really about relationships. It's	7	Α	· · · · · · · · · · · · · · · · · · ·
8		about building a good therapeutic relationship	8		Jim, I've been personally, I I had high
9		with the person in distress and supporting that	9		hopes that it would work, but I've
10		person to recognize and come to terms with the	10	~	MR. BIGLEY: (Indiscernible).
11		issues that are going on in their life, in such a	11	-	
12		way that builds a therapeutic alliance and is	12		has worked, and how receptive people had been to
13		based on negotiation, rather than the use of	13		that approach.
14		force or coercion, primarily	14		MR. BIGLEY: (Indiscernible).
15		MR. BIGLEY: (Indiscernible).	15		,
16		5	16		bit about other consequences of coercion. For
17		and coercion actually undermines the therapeutic	1		example, can you describe some of the things that
18		relationship and decreases the likelihood of	18		happen to people when they when they're
19		compliance in the long term with whatever kinds			forced?
20		of treatment or support has been implicated for	20		MS. RUSSO: Your Honor, I'm objecting to this
21		the person. So we have created and set up our	21		ne of questioning. She hasn't she's being asked
22		service along the lines of making relationship	22		o offer an opinion, but she hasn't been offered as an
23		and negotiation the primary basis for working	23		xpert yet. I don't know what Mr. Gottstein is hoping o offer Ms. Porter as an expert in, but, I I think
1 24					THE WAY PARET IS IN AVAAT IN ANT I. I TAINZ
24 25		with the person and supporting the person to reflect on and reconsider what's going on to	24		ve're getting ahead of ourselves in this.

1	Page 82			Page 84
	MR. BIGLEY: (Indiscernible).	1		to visit our service four weeks ago and was very
	THE COURT: Okay. So, Mr. Gottstein, your	2		impressed with the work that we're doing here.
3	response to Ms. Russo's	3		And, in fact, there's talk
	MR. GOTTSTEIN: Well, I think we can do it	4		MR. BIGLEY: (Indiscernible).
5	now. I would offer Ms. Porter as an expert in the		A	about bringing us back to the United States
6	provision of alternative mental health	6	A	to talk to people over here about the way that
	MR. BIGLEY: (Indiscernible).	7		we're working and providing different kinds of
8	MR. GOTTSTEIN:treatment as an alternative	8		services that are more supportive of peoples
	to the mainstream standard of care.	9		
9		9 10		autonomy and requiring
	MR. BIGLEY: (Indiscernible).			MR. BIGLEY: (Indiscernible).
		11	A	less use of force. And what they found in
12	THE COURT: Wait a minute. I have to deal	12		the research that they did about reducing
13	with the attorneys first.	13		restraint and seclusion was, not only did it
14	Ms. Russo?	14		increase the therapeutic outcomes for the
15	MS. RUSSO: Can I voir dire Ms. Porter?	15		clients, but it improved the work satisfaction
16	THE COURT: Yes. Go ahead.	16		for the staff working with people and reduced the
17	MS. RUSSO: Thank you.	17		cost of the services of
18	VOIR DIRE EXAMINATION	18		MR. BIGLEY: (Indiscernible).
19	BY MS. RUSSO:	19	Α	······································
20	Q Ms. Porter, you said you were in Alaska to	20		associated with people being hit while they're
21	study other systems. You won a scholarship?	21		trying to seclude or manager people through the
22	A Yes.	22		use of force, so.
23	Q And what specifically were you how long	23	Q	•
24	have you been in Alaska?	24		your, sort of, I guess, agenda for meeting with
25	A For a relatively short time. I arrived here	25		people while you're here?
	Page 83			Page 85
1	on Monday and I'm here until Saturday. So I've	1	Α	I've met with all kinds of different people. I
2	only got five days in this area.	2		actually attended a conference in Ottawa, which
3	MR. BIGLEY: Take me with you.	3		is called the International Initiative in Mental
4	A But what I	4		Health Leadership. And there was a number of
5	MR. BIGLEY: Take me with you. Take me with	5		different people there, including
6	you.	6	Q	If I'm gonna just stop, since we are on
7	A What I wanted to also mention is that the work	7		limited time, and
8	that we had been doing in New Zealand, in terms	8	Α	Yeah.
	of particularly with the	9	Q	we want to get as much of your testimony as
9	MR. BIGLEY: (Indiscernible).	10		
9 10		1 10		possible. In in Alaska
10	Aspecific (indiscernible) of reducing the	11		possible. In in Alaska MR. GOTTSTEIN: Your Honor, can she be allowed
10	Aspecific (indiscernible) of reducing the		to	
10 11	Aspecific (indiscernible) of reducing the use of force is based on some of the work that	11	to	MR. GOTTSTEIN: Your Honor, can she be allowed
10 11 12	Aspecific (indiscernible) of reducing the use of force is based on some of the work that was done by SAMHSA, in terms of the reduction of	11 12		MR. GOTTSTEIN: Your Honor, can she be allowed answer the question?
10 11 12 13	Aspecific (indiscernible) of reducing the use of force is based on some of the work that was done by SAMHSA, in terms of the reduction of seclusion and restraint, and the material that	11 12 13		MR. GOTTSTEIN: Your Honor, can she be allowed answer the question? THE COURT: I'm going to allow Ms. Russo to ontinue.
10 11 12 13 14	Aspecific (indiscernible) of reducing the use of force is based on some of the work that was done by SAMHSA, in terms of the reduction of seclusion and restraint, and the material that they produced about that.	11 12 13 14 15	cc	MR. GOTTSTEIN: Your Honor, can she be allowed answer the question? THE COURT: I'm going to allow Ms. Russo to ontinue. I'm trying to direct you towards just
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22 (Pages 82 to 85)

	Page 86	Page 88
1	part of the organization	1 response?
2	Q Uh-huh (affirmative).	2 MR. GOTTSTEIN: Well, I can ask a couple other
	Athat you work with.	3 questions, but I think I'm that might be an okay
4	Q Yep.	4 limitation. But I'd also like to ask:
5	MR. BIGLEY: (Indiscernible).	5 DIRECT EXAMINATION CONTINUED
6	A Eliza Ella and Tead Ella, and oh, I'm	6 BY MR. GOTTSTEIN:
7	struggling to think of the names now. I feel on	7 Q Are you familiar with an organization called
8	the spot.	8 CHOICES?
9	MR. GOTTSTEIN: You got to meet Cathy	9 A Yes, I am.
10	Creighton (ph), right?	10 Q Could you describe what you know about them?
11		11 A CHOICES does case management for people in the
12	while I've been in the United States and Canada,	12 area supporting people to actually, it's
13	I have met with	13 different kinds of services. I know that Paul
14		14 works at CHOICES, and that other parts of
	MR. BIGLEY: (Indiscernible). A Some, Yep.	15 services that they and with API, and other
16	A Some. Yep. MR. BIGLEY: (Indiscernible).	
		0
18	A And met with Sherry Meade (ph), Kelly Slater,	
1	John Allen, who is the director of the Office of	18 Q And would you say describe CHOICES
19	Recipient (indiscernible) in New York. Mat	19 philosophy as consistent with the INTAR approach?
20	Mathai (ph), Amy Colsenta (ph), Isaac Brown, and	20 A I think it probably is, yes. Because CHOICES
21	Dan Fisher.	21 stands for Consumers Having Ownership In the
22		22 service
23	you talked with anybody from API, or	23 Q Creating Effective
24		24 A Yes. Creating Effective Services. So, yes.
25	know if you've got thoughts on that, who I should	25 Absolutely.
	Page 87	Page 89
1	talk to.	1 Q Okay. Now, you said okay. Absolutely.
2	Q Okay. And in your conversations, I guess,	2 Okay.
3	with Ms. Schmook, or with the other people in	3 MR. GOTTSTEIN: So I think she certainly, at
4		
5	Anchorage have you been made aware of what	4 least, has knowledge of that option.
	treatment options are available for individuals	 4 least, has knowledge of that option. 5 THE COURT: Ms. Russo, do you want to comment
6	treatment options are available for individuals with mental illness in Anchorage?	 4 least, has knowledge of that option. 5 THE COURT: Ms. Russo, do you want to comment 6 further?
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			Dage 02
	Page 90		Page 92
1	convinced that I can regard her as an expert witness as		I don't see any need to.
2	to available alternative treatments in Anchorage, which	2	MR. BIGLEY: (Indiscernible).
3	I think	3	THE COURT: Okay. Well, I guess I'm
4	MR. BIGLEY: (Indiscernible).	4	looking at the Rules of Evidence 702, Testimony by
5	THE COURT: is the thrust of what she's	5	Experts. It says, "If scientific, technical, or other
6	being offered.	6	specialized knowledge will assist the trier of fact to
7	MR. GOTTSTEIN: No, Your Honor.	7	understand the evidence, or to determine a fact in
8	THE COURT: No?	8	issue, a witness qualified as an expert by knowledge,
9	MR. GOTTSTEIN: No. I think that she has	9	skill, experience, training, or education, may testify
10	testified some to that, but I believe that as I put	10	thereto in the form of an opinion or otherwise."
11	it in my brief, that Mr. Bigley is entitled to	11	So, actually, I think that giving, maybe a
12	alternatives that could be made available. And so	12	broad reading of this rule,
13	she's really being offered as a witness as to that. As	13	MR. BIGLEY: I can see if
14	you know	14	THE COURT:I'll allow Ms. Porter to
15	MR. BIGLEY: (Indiscernible).	15	testify as an expert in the area of alternative
16	MR. GOTTSTEIN: as well as what she knows	16	treatments, but, not necessarily
17	about choices, but that's what she's being offered as.	17	MR. BIGLEY: (Indiscernible).
18	MR. BIGLEY: You're killing me here.	18	THE COURT: in Alaska, but, what may be
19	THE COURT: Ms. Russo, any other comment?	19	what her what may be available in other places, just
20	MS. RUSSO: Your Honor, I with all due	20	just just that, and then, we'll see where we head
21	respect to Ms. Porter, and the work that she's done and	21	with other witnesses.
22	is doing, I don't the the alternatives to which	22	So, I guess, Mr. Gottstein and I'm using
23	Mr. Bigley can present evidence as, have to be	23	the computer clock on the bench. It has 11:54. That's
24	realistic in this state. And I don't know that, at	24	a little quick. So we have a little more time.
25	this particular point in time, we're at a point	25	MR. GOTTSTEIN: Okay. Thank you. Thank you,
	Page 91		Page 93
1	j		rage 55
1		1	Your Honor. So, I think most of the testimony I was
1	we've got I'm sure Mr. Gottstein will be calling people from CHOICES to testify as to exactly what, in	1 2	
	we've got I'm sure Mr. Gottstein will be calling		Your Honor. So, I think most of the testimony I was
2	we've got I'm sure Mr. Gottstein will be calling people from CHOICES to testify as to exactly what, in particular, they do in their relationship with Mr. Bigley. I'm just not sure her testimony will be	2	 Your Honor. So, I think most of the testimony I was gonna elicit has already come in on voir dire. Q But I did want to talk about some of the effects of coercion. Could you describe that.
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24 (Pages 90 to 93)

		Page 94			Page 96
1		can be regarded as symptomatic. Like, I've	1		THE COURT: Ms. Russo.
2		certainly witnessed a number of cases where	2		MS. RUSSO: Thank you.
3		people have formed the view that they are being	3		CROSS EXAMINATION
4		poisoned by medication. But when they express t	4	DV	MS. RUSSO:
		his fear, that that, itself, has been regarded as	5	Q	Just a couple questions. Mr. Porter, before
5			6	Q	
6		a symptom of illness, and (indiscernible) the	7	٨	today, had you met Mr. Bigley?
7		justification for treatment, which becomes a very		A	No, I had not met Mr. Bigley before today.
8		vicious circle and a bit of a Catch 22 from	8	Q	And have you had a chance to spend any time
9	~	service user's perspective.	9		with Mr. Bigley today?
10	Q	Are there other symptoms, you think - or,	10	A	I haven't.
11		reactions that you think are caused by coercion?	11	Q	And you're whole approach does the does
12		Ah	12		the recipient of the does the service user
13	Q		13		do they have to be willing to accept the
14		who are coerced to be labelled "paranoid"?	14		services, in order for your approach to work?
15	Α	1 1	15	Α	It's certainly helpful for that approach to
16		things are being done to them, which, it would	16		work. If the person is unwilling for the
17		appear from that person's perspective, to be the	17		approach to work, then it's least likely to
18		case, but often that could be misinterpreted as	18		succeed.
19		"paranoid" by service, and then, again, used as	19	Q	Okay. and so what happens when the person is
20		further justification for requiring the person to	20		not willing to work with the people who want to
21		accept treatment.	21		work with him?
22	Q	Can you give an example?	22	Α	We'd need to negotiate around options and
23	Α	Well, for instance, if a person believed that	23		consequences and that's generally the approach
24		services wanted to take, say, a blood sample to	24		that we take.
25		check whether or not the person had the	25	Q	And you had said at the very beginning or your
	_	Page 95			Page 97
1		therapeutic levels of medication in their blood	1		testimony that, I think, your approach let me
2		stream, the person might think that the blood	2		see if I can refer to my notes. Is that that
3		test was being required as a way for the services	3		your approach, you didn't believe that forced
4		to get them, or trick them into taking more	4		medication and correct me if I'm giving your
5		medication. And that can happen and is	5		testimony wrong, but that it was that it
6		reasonably common. Certainly, in New Zealand, I	6		wouldn't work for a significant portion of the
7		would imagine it would be the same in other	7		population. Did you mean all of the population,
8		parts.	8		or did you mean that
9	Q		9	Α	
10	-	would that often be labelled "paranoia"?	10		not work for most people.
11			11		
12		it's a product of different (indiscernible),	12	-	
13		where services would say some things as you	13		there might well be. Because, again, these in
14		know, potentially being a benefit to the service	14		my view, there's no absolutes. It's like saying
15		user, where the service user might say that it's	15		and the same way as you can't say, medication
16		to their detriment. So that's, again, different	16		is a good answer for everybody. There are some
17		perspectives of the same thing. But from the	17		people for whom medication is helpful. But I
18		service users perspective, it's a difficult issue	18		
19			19		think that generally speaking, I'm not certain
20		and it might well be perceived as paranoia on the	20		what your legislation requires here, but in New
		part of the person. Which, again, gets labelled	1		Zealand, the requirement is that even people
21		as a symptom and treated as such, so it becomes,	21		subjected to compulsory treatment, it is only
22		again, a self fulfilling situation.	22		able to be and provided without the consent of
23		MR. GOTTSTEIN: I could ask some more	23		the person for the first 28 days. And the
24	-	uestions, but I think I'll let Ms. Russo use the rest	24		rational for that is that it's expected that
25	0	f the time for cross examination.	25)	after 28 days of use of medication, that the

1 person themselves would be able to recognize the benefit of it and then voluntarily agree to something similar has othaf's certainly a safeguard that's built into the New Zealand legislation. I would imagine you would have some some some sequences that safeguard that's built into the New Zealand legislation. I would imagine you would actually might provision for the person to be able to - might provision for the person to be able to - might provision for the person to be able to recognize able here. And I would actually might provision for the person to be able to recognize able here fit. But if there isn't a benefit that if the person. Because the unfortunate truth of the person at there are a few people for whom it's problemiat and unconfortable and distressing. 1 ''ON work sort of designed to - to make sure that people here are a few people for whom it's problemiat and unconfortable and distressing. 23 Q And are there - is basically the whole thrust of your work sort of designed to - to make sure that people here are a few people for whom it's problemiat and unconfortable and distressing. 1 A I believe that even people who are and mere are few people for whom it's problemiat and the person at the derestor the a unconfortable and		Page 98	Page 100
2 benefit of it and then voluntarily agree to continue taking it. And is othat's certainly a safeguard that's built into the New Zealand legislation. I would imagine you would have something similar here, and that would actually- - might provision for the person to be able to make an informed choice, and presumably after 28 days of using a medication, or be it by force, days of using a medication, or be it by force, days of using a medication, or be it by force, the person themes/vas would be able to recognize a bit be be perceived by the person, then I would actually acknowledge that, and work with the satually acknowledge that, and work with the for all people, there are a few people for whom it is good answer, and it's helpful. But they are alarge number for whom it's problematic and uncomfortable and distressing. 2 good for them." And that's basically what is if Ms. Went were also as a statistic statistic satually acknowledge that, and work with the satually acknowledge that, and that a person it is good answer, and it's helpful. But they satually acknowledge to - to make sure of your work sort of designed to - to make sure satually acknowledge youresponase to the idet that someone who has bee n- you know	1		
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1	That the foregoing transcript is a	
-	transcription of testimony of said proceedings to the	
2	best of my ability, prepared from tapes recorded by	
	someone other than Pacific Rim Reporting, therefore	
3		
4	I am not a relative, or employee, or attorney, or counsel of any of the parties, nor am I	
5	financially interested in this action.	
6	IN WITNESS WHEREOF, I have hereunto set my	
	hand and affixed my seal this 7th day of September,	
7	2007.	
8		
9	Notary Public in and for Alaska	
10	My commission expires: 10/05/2007	
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