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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.)

RECEIVED
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Case No. 3AN 08-1252 PR

MOTION FOR RECONSIDERATION OF ORDER DENYING MOTION FOR REPRESENTATION HEARING; AND MOTION AND MEMORANDUM FOR INJUNCTION AGAINST PSYCHRIGHTS

I. MOTION FOR RECONSIDERATION

The Office of Public Advocacy, public guardian, on behalf of Mr. Bigley moves this court to reconsider its order denying the Public Defender's Agency Motion for a Representation Hearing (Public Defender's Motion) pursuant to Civil Rule 77(k)(1)(i)(ii) and (iii), namely that the court "overlooked, misapplied or failed to consider a statute, decision, or principle directly controlling;... overlooked or misconceived some material fact or proposition of law; ... [and] overlooked or misconceived a material question in the case." Alaska Rules of Civil Procedure 77(k)(1)(i)(ii) and (iii). The public guardian had been prepared to file a non-opposition to the Motion for Representation Hearing and its own Motion for Injunction against Psychrights today when it received notice of the court's order denying of the Public Defender's Motion (December 11 Order). It has converted its Non-Opposition to a Motion for Reconsideration based on the court's December 11 Order.

The Public Defender Agency did not request expedited consideration of its motion when it was filed on December 5, 2008 and the guardian is unaware that any

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1 expedited timeframe had been requested by the court. Therefore, its planned response
2 was timely. Alaska Rules of Civil Procedure 77(c)(2). The court ruled on the motion
3 before it was ripe.
4

5 A. The court has failed to consider a statute, decision, or principle directly
6 controlling when it did not distinguish case law the Public Defender Agency
7 supplied and when it did not consider the ramifications of the guardianship order
8 on Mr. Bigley's ability to choose counsel.

9 In support of its motion, the Public Defender Agency cited cases from
10 Missouri (Owen v. Rea, 929 S.W.2d 244, 248-49(Mo. Ct. App. 1996) and In re Link,
11 713 S.W.2d 487, 498 (Mo. 1986)) which discuss the appropriateness of representation
12 hearings when there were questions concerning incapacitated individual's choice of
13 counsel. This court did not address how the instant case was different from those, or
14 from the case of In re Holly, 164 P.3d 137, 144 (Okla. 2007), an Oklahoma
15 guardianship case that laid out a four-part test to determine whether an incapacitated
16 person's choice of counsel was an appropriate one. While Oklahoma has a specific
17 statute controlling this particular issue and Alaska does not, many of the related
18 statutes appear to be similar to AS 13.26.090 *et seq.*

19 This court has clearly recognized that Mr. Bigley lacks the capacity to
20 make legal decisions. December 11 Order, p. 6. However, while the court is aware of
21 the existence of Mr. Bigley's guardian (through his own testimony at the commitment
22 and medication hearings, and the presence, at the court's request, of the current
23 guardian and Mr. Bigley's formerly assigned guardian at the evidentiary hearings on the
24 medication petition), the court did not seek the guardian's input. Alaska Statute
25 13.26.150(c) assigns a guardian all "the same powers and duties respecting the ward
26

1 that a parent has respecting an unemancipated minor child..." AS 13.26.280(c)(23)
2 grants conservators the authority to hire attorneys on behalf of their wards. Nothing in
3 either Mr. Bigley's own guardianship orders, attached as exhibit B, nor in AS
4 13.26.150(e) [the subsection which limits a guardian's authority] restricts the guardian's
5 ability to contract on his behalf or find appropriate legal counsel for him. If the same
6 representation issue had come up in the context of a minor, the court would have likely
7 sought the opinion of the child's parents. In addition, part of the effect of guardianships
8 and conservatorships is that there is a person, or in this case an entity, designated by
9 the court with the authority to act on behalf of the incapacitated individual. Cf. Kenai
10 Chrysler Center, Inc., v. Denison, 167 P.3d 1240 (holding that a car dealer had
11 constructive notice of a customer's incapacity and should have accepted the guardian's
12 attempt to rescind the purchase agreement). Therefore, the court should reconsider its
13 December 11 Order and inquire of the guardian's position.

14
15
16 B. The court has overlooked a material fact or proposition of law by failing to
consider the Affidavit of Erin Pohland.

17 The court cited Mr. Bigley's "willingness to stick with an attorney already
18 selected" as a reason for its denial of the Public Defender's Motion. However, it does
19 not appear to have considered the Affidavit of Assistant Attorney General Erin Pohland,
20 attached as Exhibit D, which was originally filed during the medication hearing and API
21 included again with its Joinder to the Public Defender's Motion. That affidavit described
22 Mr. Bigley's attempts to hire Ms. Pohland as his counsel because he was upset with his
23 counsel. The guardian has attached a document as Exhibit A-1, that Mr. Bigley signed
24 this summer. In it, Mr. Bigley expressed his desire to fire Mr. Gottstein. The guardian
25

1 had been planning on filing this document with its original Non-Opposition to the Public
2 Defender's Motion. Because there is evidence that Mr. Bigley is unhappy with his
3 representation situation, the court should reconsider its December 11 Order.
4

5 C. The court overlooked a material question in the case when it failed to
6 consider the fact that Mr. Bigley has been determined in capable of making legal
7 decisions by the court in 3AN-04-545 PR.

8 Again, the court was aware that Mr. Bigley was under a full guardianship
9 order, yet it did not discuss in its December 11 Order what, if any ramifications that
10 order had on the representation question raised by the Public Defender Agency.
11 Admittedly, this is a rather unusual situation, but the consequences of the guardianship
12 orders should have been considered.

13 **II. MOTION AND MEMORANDUM FOR INJUNCTION AGAINST PSYCHRIGHTS**

14 While the guardian was not opposed to the Public Defender's Motion for a
15 representation hearing, it is the guardian's opinion that ultimately, there is no need for
16 an evidentiary hearing because the guardian is opposed to any continued
17 representation by Law Project for Psychiatric Rights (Psychrights) on behalf of Mr.
18 Bigley. Through the filing of this pleading (and a similar one in the guardianship case,
19 3AN-04-545 PR), the guardian asserts its right to terminate Psychrights' representation
20 of the public guardian's ward by asking the court to enjoin Psychrights from any further
21 representation of Mr. Bigley.

22 Mr. Bigley is under a full guardianship pursuant to an order issued in case
23 3AN-04-545 PR. Attached as Exhibit B. The probate court has found that Mr. Bigley is
24 incapacitated and its subsequent findings and orders provide that the Office of Public
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Advocacy, public guardian, is to act as Mr. Bigley's full guardian with full conservatorship authority.

Guardians are charged with protecting the health and well-being of their wards. AS 13.26.150. To that end,

- (c) a full guardian of an incapacitated person has the same powers and duties respecting the ward that a parent has respecting an unemancipated minor child...
- (4) the guardian shall assure through the initiation of court action and other means that the ward enjoys all personal, civil, and human rights to which the ward is entitled;
- (5) the guardian may give consents or approvals necessary to enable the ward to receive medical or other professional care, counsel, treatment, or services except as otherwise limited by (e) of this section;

AS 13.26.150(c). To be someone's guardian means that one must balance the desires of the ward with their best interests. AS 13.26.150(a). However, ultimately the purpose of guardianships is to protect people when they are incapable of doing so themselves.

AS 13.26.090. All guardians in this state must be registered with a national organization, this includes public guardians. AS 08.26.020(3). The National Guardianship Association's Standards of Practice dictate that guardians should strive to make decisions using substituted judgment.¹ National Guardianship Association, Standards of Practice, 7. However, if that choice would lead to "substantial harm" then the guardian should apply a best-interest analysis in making the decision. Id.

Circumstances have reached the point where it is clear that substantial harm will befall Mr. Bigley if the current circus of litigation continues and prevents him

¹ Substituted judgment is the decision making model whereby a guardian looks to the expressed wishes of the ward, thereby substituting their own choice with the choice the ward would have made if he had the capacity to do so.

1 from getting medication he desperately needs—medication which multiple superior
2 court judges have found to be appropriate and in his best interests. Thus, it is the
3 guardian's duty to protect Mr. Bigley. The guardian's attorney notified Mr. Gottstein by
4 e-mail on December 1, 2008 that the guardian was opposed to him filing any appeal of
5 the Order issued by Judge Morse on November 25, 2008 (Order). Since that time,
6 Psychrights has filed numerous pleadings seeking to circumvent that order. That is
7 why the guardian is now seeking the court's assistance by moving for an injunction
8 against Psychrights.
9

10 For a preliminary injunction to be granted, the court must perform a three-
11 part balancing test. State, Div. of Elections v. Metcalfe, 110 P.3d 976,978 (Alaska
12 2005). First, the court must look to see if the plaintiff will be irreparably harmed.
13 Second, the court must look at whether the opposing party can be adequately
14 protected. Finally, the court must determine whether the questions presented are
15 substantial. Id. In the present case, this court determined in its Order that it is in Mr.
16 Bigley's best interests to take the psychotropic medication the Alaska Psychiatric
17 Institute (API) wishes to prescribe. It accepted the testimony of the doctors that the
18 longer Mr. Bigley goes without medication, the lower his baseline of capabilities will be.
19 Order p. 26. Therefore, Mr. Bigley will suffer irreparable damage if the current litigation
20 is allowed to proceed and preempt valid orders granting the administration of
21 psychotropic medication. Psychrights will not be harmed by no longer representing Mr.
22 Bigley. It is offering Mr. Bigley its services free of charge. In fact, it is likely that if
23 Psychrights no longer is allowed to represent Mr. Bigley, who is one of the most
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1 mentally ill individuals in this state and is clearly in need of protection, it could have
2 time to find another client better suited to advancing its objectives. There can be no
3 doubt that the question presented by Psychrights' continued representation is
4 substantial because of the direct impact it has on Mr. Bigley's ability to live his life as
5 fully as possible.
6

7 In addition to ignoring the guardian's attorney's notice that it was not
8 supporting any appeal of the Order, it has become increasingly clear to the guardian
9 that Psychrights is not acting in Mr. Bigley's interest, rather is pursuing its own agenda
10 with the instant litigation. In fact, the entire history of this representation has been
11 fraught with potential conflict. See Mr. Gottstein's story of how he came to represent
12 Mr. Bigley (by searching for a "vehicle" by which Psychrights could circumvent a federal
13 court order sealing certain records related to Zyprexa so that they might be
14 disseminated- which they were in the New York Times) published on his website,
15 www.psychrights.org, the first pages of which are attached as Exhibit C.² The fact
16 that Psychrights is pursuing its own agenda is exemplified by the fact that Mr. Bigley
17 was completely uninformed of the status of this litigation- he was even unaware that a
18 medication order had been granted. See Affidavit of Jonathan Hughes, Exhibit A. In
19 addition, as evidenced at the medication hearing in this case, Mr. Gottstein has had to
20 call the police on Mr. Bigley on numerous occasions. These contacts have lead to Mr.
21 Bigley being arrested and sent to jail which most authorities agree is an outcome more
22 invasive than being committed to a mental institution. Cf. Addington v. Texas, 441 US
23

24 _____
25 ² The recitation of Mr. Bigley's history depicted on that website is Psychrights' own version of events and
26 is not endorsed by the guardian.

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418, 425-427 (1979). This has understandably strained Mr. Gottstein's relationship with his client. As a result Mr. Bigley has been telling his guardian with increasing frequency that he wishes to "fire" Mr. Gottstein. See Affidavit of Jonathan Hughes, Exhibits A and A1. Mr. Bigley even tried to recently hire one of the assistant attorneys general representing API in this matter. See Affidavit of Erin Pohland, Exhibit D.

As this court found in its Order dated November 25, 2008, Mr. Bigley is incapable of participating in his defense. As evidenced by the attached affidavit of the guardian Mr. Bigley is incapable of having a meaningful conversation in which he is fully able to participate. It is the guardian's position he clearly cannot participate in the current legal strategy. See Affidavit of Jonathan Hughes, Exhibit A. Regardless, Mr. Bigley, by the sheer existence of his guardianship is presumed to be incapable of this type of participation in legal proceedings. AS 13.26.150(c); Cf. In re Lillian P., 617 N.W.2d 849, 856 (Wis. 2000) (holding that, as a matter of law, a ward was incapable of waiving a conflict of interest her attorney had). Thus, the guardian has a duty to act in its ward's stead. AS 13.26.150(c).

It is the guardian who should be consulted regarding any strategic decisions that need to be made. In addition to the powers and duties of a guardian described above, AS 13.26.280(c)(23) grants conservators the right to hire attorneys on behalf of their wards. Other courts have indicated, "[i]t makes no sense to empower a guardian to give such consent if the incompetent objection of the incapacitated person can override it." In re Conticchio, 182 Misc.2d 205, 208 (N.Y. Sup.Ct. 1999) (Discussing the court-ordered authority given to the guardian to consent to

1
2 psychotropic medication on behalf of the ward.)³

3 Since Psychrights began representing Mr. Bigley two years ago, the
4 guardian has done its best to work with that representation by using the framework
5 created by the substituted judgment model of decision-making. However, it is now
6 asserting its position as guardian and acting to protect its ward from further harm. It
7 should be noted that the guardian is not requesting new counsel be appointed for Mr.
8 Bigley in this proceeding because he already is represented by the Public Defender
9 Agency with regard to all commitment issues. The guardian assumes that if this Motion
10 for Injunction is granted, the public defender agency will represent Mr. Bigley on the
11 medication portion of the commitment and believes that the assigned attorneys from
12 that agency are more than capable to represent Mr. Bigley in that regard.

13 Therefore, because the guardian is acting within its authority by seeking
14 to terminate its ward's relationship with Psychrights, there is actually no need for the
15 court to hold a representation hearing as requested by the Public Defender Agency.
16 However, if the court reconsiders its Order and thinks such a hearing is necessary
17 nonetheless, the public guardian is not opposed to having such a hearing held so that
18 an appropriate record may be created. Cf. In re Holly, 164 P.3d 137, 144 (Okla. 2007)

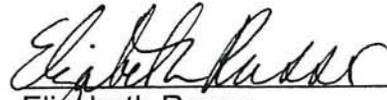
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20
21 ³ Like the guardianship orders in Conticchio, the guardianship orders in Mr. Bigley's case specifically
22 give the guardian the authority to consent to the administration of psychotropic medication on his behalf.
23 See Findings and Order of Full Guardianship/Conservatorship, Exhibit B. As part of a settlement
24 agreement in July 2007 in the guardianship case, API agreed not to accept the Guardian's consent to
25 psychotropic medication over Mr. Bigley's wishes while he was involuntarily committed to API. However,
26 this individual agreement should not be seen as an admission that guardians lack the authority to
consent to medication when a ward is involuntarily committed and it does not prohibit the guardian from
supporting API in its petition for court approval of involuntary administration of medication. Nor does this
agreement supercede the Guardianship Order granting Mr. Bigley's guardian the authority to consent to
psychotropic medication in other situations.

1 (clarifying a four-step process delineated in Oklahoma statute by which a ward's choice
2 of attorney may be approved by the court.)
3

4 While the Public Guardian's office and API cannot be said to always be in
5 agreement on all subjects, in this matter at this time, the guardian feels that API is
6 acting to protect Mr. Bigley's best interests. Thus, to the extent that there are any
7 motions which are not yet ripe for decision, the public guardian notes for the record that
8 it joins API's position in those motions.

9 Dated at Anchorage this 11th day of December, 2008.

10 OFFICE OF PUBLIC ADVOCACY

11 
12 Elizabeth Russo
13 Assistant Public Advocate
14 Alaska Bar No. 0311064

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19
20 CERTIFICATE OF SERVICE

21 The undersigned hereby certifies that a
22 copy of the foregoing was delivered to:
23 Derry, AGO; Brennan, PDA; Vassar, court visitor;
24 and mailed to: Gottstein, Esq.

25 
Signature Date

1
2 IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
3 THIRD JUDICIAL DISTRICT AT ANCHORAGE

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

Case No. 3AN 08-1252 PR

8 **ORDER DISALLOWING PSYCHRIGHTS REPRESENTATION OF**
9 **WILLIAM BIGLEY**

10 Having considered the guardian's Motion for Injunction Against
11 Psychrights, and any responses or opposition thereto, the guardian's Motion is
12 GRANTED. Psychrights will no longer be recognized as Mr. Bigley's counsel in this
13 commitment case. _____ is appointed Mr. Bigley's attorney for
14 any and all further proceedings in this matter.

15 DATED: _____

16
17
18 _____
19 Superior Court Judge

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23 Anchorage, Alaska 99501
24 Phone (907) 269-3500 • Fax (907) 269-3535
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1
2 IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
3 THIRD JUDICIAL DISTRICT AT ANCHORAGE

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

Case No. 3AN 08-1252 PR

8 **AFFIDAVIT OF JONATHAN HUGHES, PUBLIC GUARDIAN**

9 STATE OF ALASKA)
10) ss:
11 THIRD JUDICIAL DISTRICT)

12 I, Jonathan Hughes, being first duly sworn, depose and state:

13 1. I am the assigned guardian of William S. Bigley.

14 2. I visited William Bigley on December 3, 2008 on the Taku unit at
15 API. He was dressed in gray sweats (which I had bought for him) that were much
16 closer to the correct size than those that he wore the last time I saw him at the
17 medication hearing. Rich, his attendant, was present for part of the visit.

18 3. Mr. Bigley wanted to know why I was there as this visit was not pre-
19 arranged. I told him that I was just stopping by to get his understanding of his
20 current legal situation and where he would like to go from here. He did not seem to
21 understand. I reminded him of the hearing that he had been a part of in front of
22 Judge Morse there at API.

23 4. I asked if he had discussed the result of that hearing with his
24 attorney, Mr. Gottstein. Both Mr. Bigley and his attendant were surprised to hear
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that a decision had been made.

5. Mr. Bigley was not aware of the decision and asked me to tell him what it was. I explained that it was a long decision, but that I had read it. I told him that the 90-day petition had been granted, the involuntary medication petition had been granted, but that it had been stayed for a few weeks. He did not seem to understand.

6. I asked him if Mr. Gottstein had reviewed this decision with him. He told me that he had not.

7. At this point, I asked if he would like to appeal the decision. He said that he wanted to see the paperwork. He became agitated and started yelling at me. "Show me the paperwork!", "Call your office and have them fax the paperwork here! Right now!"

8. I asked if he had told Mr. Gottstein to appeal the decision. Instead of answering, he continued to demand paperwork.

9. I asked him if he was in agreement with the filings that Mr. Gottstein had filed on his behalf this week. He told me that he did not know because he has NOT seen the paperwork.

10. This recounting of our conversation has been to aid the reader of this affidavit. It was not as direct a conversation as it might appear. Mr. Bigley talked about PT-109 [the boat President Kennedy commanded during World War II] during the visit and asked if I had been in jail. He told me several times that if he had a gun, he would kill me. He asked many times, "Do you know who I am?" He

1 pointed to the walls and talked about cameras. He wanted to know exactly how
2 much money he had in the bank. He also asked me if he could represent himself in
3 his court hearings. He also expressed the desire to "take the stand."
4

5 11. Mr. Bigley was surprised to learn of the November 25th order
6 granting approval of administration of psychotropic medication. However, it is my
7 belief that Mr. Bigley has very little understanding of the legal issues involved
8 regarding his current civil commitment, or the involuntary medications orders or
9 their practical applications.

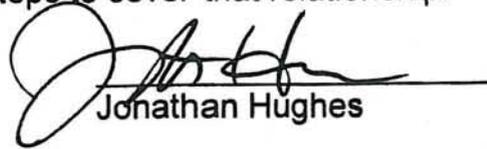
10 12. At the end of our visit Mr. Bigley stood holding the door to the
11 unit open and continued to talk, threaten, accuse, etc. I was standing
12 approximately 12 feet away. Someone from the unit was telling him that he needed
13 to let go of the door and come into the unit. Mr. Bigley stopped talking and then spit
14 in my direction. Had I been standing closer, his saliva would have come in contact
15 with my person. He shut the door and left.

17 13. In recent months, Mr. Bigley has been increasingly upset by
18 Psychrights and has stated to me that he would like to "fire" Mr. Gottstein. In fact, in
19 July he wrote that down. I am attaching a copy of that document to this affidavit.
20 (See Exhibit A-1.)

21 14. Although he has been increasingly upset by Psychrights'
22 representation of him, he would waiver in this conviction. Because of his
23 deterioration over the last several months, Psychrights was one of the few
24 organizations that was willing to lend him any kind of support. Therefore, I have
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hesitated until now to take affirmative steps to sever that relationship.


Jonathan Hughes

SUBSCRIBED AND SWORN to before me on December 11, 2008
at Anchorage, AK.




NOTARY PUBLIC FOR ALASKA
My Commission Expires: 12/29/08

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT

In the Matter of the Protective Proceedings of:)
)
WILLIAM BIGLEY,)
Respondent.)
) Case No. 3AN-04-545 P/G

FINDINGS AND ORDER OF FULL GUARDIANSHIP/CONSERVATORSHIP

A hearing was brought in the above entitled matter on December 6, 2004, at the hour of 9:30 a.m., before the Honorable John E. Duggan, Probate Master of the Superior Court for the State of Alaska.

Present in the courtroom were petitioner's attorney, Holly Chari, Assistant Attorney General; and Steven Young, public guardian of the Office of Public Advocacy. Present for the hearing by telephone from Alaska Psychiatric Institute (API) were the respondent, William Bigley; the respondent's court appointed attorney, Ernest M. Schlereth; Anne O'Brien, social worker for API and representing Petitioner State of Alaska; Dr. Thompson, psychiatrist at API. The court appointed visitor was not present but her report was filed with the court.

The parties stipulated to the entry into evidence of the court visitor's report dated December 3, 2004. The parties further stipulated to the appointment of the Office of Public Advocacy as full guardian/conservator of the respondent. Based on the foregoing, the court finds as follows:

1. The court has jurisdiction by virtue of respondent's residency.
2. It has been shown by clear and convincing evidence that the respondent is incapacitated, as that term is defined by statute, due to a diagnosis of schizophrenia, paranoid type.
3. The respondent is unable to manage property and/or financial affairs

DEC 15 2004

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ANCHORAGE, ALASKA 99503

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because of incapacity.

4. It is in the best interests of the Respondent to have the Public Guardian serve as conservator of the respondent as well as guardian.

5. Alternatives to guardianship were considered and are not feasible, and it is in the best interests of the respondent to have the public guardian serve as guardian.

6. Notice has been given as required by law.

Based on the foregoing findings, the court hereby enters the following:

ORDER

1. The Public Guardian is appointed as full guardian and full conservator of the respondent, to serve without bond, for an indefinite period of time.

2. The guardian's powers and duties shall be those as set out in the Guardianship Plan and pursuant to AS 13.26.090 through .155, including the power to make medical decisions and to approve administrations of any and all medications to be prescribed for the respondent, and to approve medical procedures and administration of psychotropic medications.

3. The Public Guardian shall also act as conservator for the respondent. The powers and duties as conservator shall be those set out in AS 13.26.280.

4. The full guardianship plan attached hereto shall be incorporated herein.

5. The Public Guardian shall file a guardianship and conservatorship implementation report with the probate court within 90 days from the date of appointment.

6. The Public Guardian shall file a report with the probate court concerning the status of the guardianship on or before January 1, 2006, and each January 1, thereafter.

7. The appointment of the court appointed attorney and court appointed visitor shall terminate with the entry of this order.

DATED this 26 day of December, 2004, at Anchorage, Alaska.

Morgan Austin
SUPERIOR COURT JUDGE

Recommended for Approval:

DATED: 12/24/04

[Signature]
Probate Master

I certify that on 1-25-05 a copy of the above was mailed to the following at their addresses of record (List names if not an agency)

CSED AG PD DA AG
OPA
WELLS
SCHLERETH

[Signature]
Deputy Clerk / Secretary

JAN 05
25TH
[Signature]
Deputy

LAW OFFICE OF ERNEST M. SCHLERETH, LLC
225 E. FIREWEED LANE, SUITE 301
ANCHORAGE, ALASKA 99503

(907) 272-5549
FAX (907) 274-7401

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT

In the Matter of the Protective Proceedings of:)
)
WILLIAM BIGLEY,)
Respondent.)
)

Case No. 3AN-04-545 P/G

GUARDIANSHIP PLAN ^D

A judicial determination has been made that WILLIAM BIGLEY is incapacitated and the services of a full guardian/conservator are necessary.

The Office of Public Advocacy is appointed as full guardian and conservator of the respondent, to serve without bond, for an indefinite period of time. The full guardian's authority is as specified in the following guardianship plan.

1. The guardian has full authority to provide for the ward's medical care, mental health treatment, and any necessary physical and mental examinations.
2. The guardian has full authority to provide for the ward's housing in the least restrictive setting feasible.
3. The guardian has full authority to provide for the ward's personal care, comfort, maintenance, education and vocational services necessary for the physical and mental welfare of the ward.
4. The guardian has full authority to provide for health and accident insurance and any other private or governmental benefits to which the ward may be entitled, to meet any part of the costs of medical, mental health or related services provided to the ward.
5. The guardian has full control of the estate and the income of the ward to pay for the cost of services that the guardian is authorized to obtain on behalf of the

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REC 15 2004

ward.

6. The guardian will encourage WILLIAM BIGLEY to participate in all decisions that affect him and to act on his own behalf to the maximum extent possible.

DATED this 26 day of December, 2004, at Anchorage, Alaska.

Morgan Christie
SUPERIOR COURT JUDGE

Recommended for Approval:

DATED: 1/22/05

John E. Duggan
John E. Duggan, Probate Master

I certify that on 1-25-05 a copy of the above was mailed to each of the following at their addresses of record. (List names if not an agency)

CSED AG PD DA AG

Knovon
Deputy Clerk / Secretary

OPA
WELLS
SCHLERETH

JAN 05
By: Knovon
Deputy

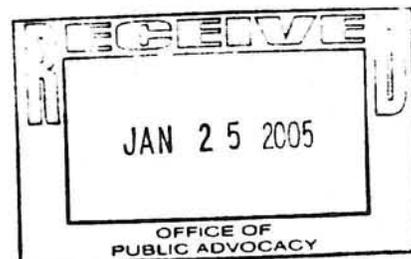
LAW OFFICE OF ERNEST M. SCHLERETH, LLC
225 E. FIREWEED LANE, SUITE 301
ANCHORAGE, ALASKA 99503

(907) 272-5549
FAX (907) 274-7401

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT

In the Matter of the Protective Proceedings of:)
)
WILLIAM BIGLEY,)
Respondent.)
_____)



Case No. 3AN-04-545 P/G

LETTERS OF FULL GUARDIANSHIP/CONSERVATORSHIP

A hearing regarding the above captioned matter was held on December 6, 2004, and after hearing and findings, the Office of Public Advocacy is hereby appointed as full guardian and full conservator of the respondent; namely, WILLIAM BIGLEY, to serve without bond, for an indefinite period of time.

The duties and powers of the full guardian shall be those as set out in AS 13.26.090 through 13.26.150. The full conservator's powers and duties shall be those set out in AS 13.26.165 through 13.26.320. These powers and duties shall include those as set out in the Findings and Order of Full Guardianship and Full Conservatorship filed herewith, along with the Guardianship Plan attached thereto.

DATED this 26 day of December, 2004, at Anchorage, Alaska.

Morgan Christen

SUPERIOR COURT JUDGE

Recommended for approval:

DATED: 12/24/04

[Signature]

John E. Duggan, Probate Master

ACCEPTANCE

The Office of Public Advocacy hereby accepts the duties of full guardian/conservator and solemnly swears to perform according to the law the duties of

DEC 15 2004

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full guardian/conservator as required and permitted by statute and as enumerated in AS 13.26.090 - .150 and AS 13.26.165 - .320, and in the Findings and Order of Full Guardianship/ Conservatorship filed in this court, along with the Guardianship Plan attached to the Findings and Order. I further state that I have read and understand the duties and powers of a guardianship/conservatorship under AS 13.26.150 and AS 13.26.245-315, with any restrictions imposed by the court, as well as the reporting requirement of AS 13.26.117 and AS 13.26.118 and AS 13.26.250. I hereby submit to the jurisdiction of the court.

DATED this 14th day of December, 2004.

The Office of Public Advocacy

Steven D. Young
By: Public Guardian

SUBSCRIBED AND SWORN to before me this 14 day of Dec., 2004.



Marsha A. Tandeske
Notary Public in and for Alaska
My commission expires: _____

I certify that on 1-25-05 a copy of the above was mailed to each of the following at their addresses of record (List names if not an agency)

CSED AG PD DA A&E

OPA
WELLS

V. Monahan
Deputy Clerk / Secretary

SCHLERETH

STATE OF ALASKA
JAN 05 25TH
By: V. Monahan
Deputy

PsychRights®

Law Project for
Psychiatric Rights

Alaska

Case Seven -- Forced Drugging of Bill Bigley, Respondent, One Drug, Two Faces, New York Times, March 25, 2008

Superior Court Case No. 3AN 07-1064 P/S

Supreme Court Case No. 12851

Supreme Court Case No. S-13015

Superior Court Case No. 3AN 08-00247 PR

Superior Court Case No. 3AN 08-00493 PR

Supreme Court Case No. S-13116

Superior Court Case No. 3AN 08-1252 PR

Supreme Court Case No. S-13353

Superior Court Case No. 3AN 07-1064 P/S

Mr. Bigley's History

Prior to 1980, Mr. Bigley, an Alaskan Native, was successful in the community, he had long-term employment in a good job, was married and had two daughters. In 1980, Mr. Bigley's wife divorced him, took his two daughters and saddled him with high child support and house payments, resulting in his first hospitalization at the Alaska Psychiatric Institute (API). When asked at the time what the problem was Mr. Bigley said "he had just gotten divorced and consequently had a nervous breakdown." He was cooperative with staff throughout that first admission.

At discharge, his treating psychiatrist indicated that his prognosis was "somewhat guarded depending upon the type of follow-up treatment patient will receive in dealing with his recent divorce." Instead of giving him help in dealing with his recent divorce and other problems, the system's approach was to lock him up and force him to take drugs that, for him at least, do not work, are intolerable, and have harmful mental and physical effects.

This pattern was set by his third admission to API: As is often the case, the medication did not have noticeable favorable effects throughout the first several hospital weeks and there were a variety of unpleasant Extra Pyramidal Symptoms (EPS). On 3/26/81 a judicial hearing determined that there would be granted a 30 day extension during which time treatment efforts would continue, following which there would be a further hearing concerning the possibility of judicial commitment. Mr. Bigley was furiously angry that he was deprived of his right to freedom outside the hospital, but despite his persistent anger and occasional verbal threats, he never became physically assaultive, nor did he abuse limited privileges away from the locked unit.

Twenty seven years and over 70 admissions later API has continued to lock him up to forcibly drug him

and then release him into the community, knowing full well he will quit them. Even after the maximum drugging, API describes Mr. Bigley's condition as "delusional" with "no insight and poor judgment, . . . paranoid and guarded."

In 2004, API petitioned for Mr. Bigley to have a full guardianship appointed, which was granted and the Alaska Office of Public Advocacy (OPA) appointed as his full guardian. At that point, virtually all of Mr. Bigley's legal right to decide anything for himself was taken away from. He's livid about this, of course.

In spite of this 27 years of failure over 70 admissions, API's psychiatrist testified in the April, 2007 public jury trial, that the plan is by repeatedly obtaining forced drugging orders Mr. Bigley will be trained to stay on his medication when discharged.

While Mr. Bigley usually "submits" when 3 or 4 staff members come at him with a needle, on those occasions when he doesn't, he is physically held down and the drugs injected into him. Mr. Bigley is quite naturally livid about all of this happening to him.

It is quite clear that Mr. Bigley's ongoing psychiatric difficulties are the result of what the mental health system has done to him. The drugs do not "work" for a high percentage of people and Mr. Bigley is certainly one of them. Instead of addressing his problems in ways that are known to be effective, API has continued to force Mr. Bigley to endure interventions that have quite properly been characterized as torture.

PsychRights Begins Representing Mr. Bigley

PsychRights began representing Mr. Bigley on December 6, 2007. It was looking for an appropriate vehicle to subpoena what have become known as the Zyprexa Papers, and advance other strategic litigation objectives that might be possible through representing him. Of course, once representing him, as his attorney, PsychRights was obligated to do so vigorously with respect to any and all other interests he might have in the case(s) in which he was represented by PsychRights. Initially, PsychRights thought OPA had been consenting to Mr. Bigley's forced drugging⁴ and as an alternative to termination of the guardianship if termination was not granted, petitioned to eliminate the guardian's right to consent to Mr. Bigley being given these drugs against his will.

Since then, PsychRights has also represented Mr. Bigley in a number of forced drugging proceedings, as well as continuing to represent him in trying to get out from under his guardianship. In the first one, API just let him go after PsychRights got into the case and demanded a jury trial. In the second one, Mr. Bigley won a jury trial on involuntary commitment and he was let go. Mr. Bigley also won another jury trial on involuntary commitment in which another part of OPA represented him and Jim Gottstein testified on his behalf as a fact witness.

Proceedings in This Case: Through the Looking Glass

Note: Most of the links don't work because the Probate Master, improperly in PsychRights' view, closed the file from public access even though Mr. Bigley elected to have the hearing open to the public as is his right. This is on appeal. However, the motions and order regarding the closure of the file are public:

- September 25, 2007, motion to open the file to the public.
- October 5, 2007, opposition by API to public access

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

AFFIDAVIT

STATE OF ALASKA)
THIRD JUDICIAL DISTRICT) ss.

Erin A. Pohland, being first duly sworn upon oath, deposes and says:

1. I am the assistant attorney general assigned to the above-captioned matter.

2. During a break from the hearing in the above-captioned matter on November 6, 2008, Respondent approached me and asked me for my business card. After being assured that he just liked to collect business cards, I gave Respondent a business card.

3. At 6:04 p.m. on November 6, 2008, I received a phone call from "API Taku Nursing Station." Presuming that the call was placed by an API employee wishing to consult with counsel, I accepted the telephone call.

4. Instead, the employee transferred me to Respondent, who ranted unintelligibly. I explained to Respondent that I was not his attorney and ended the call.

5. At 12:55 p.m. on November 7, 2008, I received another phone call from "API Taku Nursing Station." I accepted the call and instructed the employee placing the call that I was not Respondent's counsel, that I could not speak to him, and that he was not to be permitted to call me again. The employee agreed that Respondent's phone privileges be limited.

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1031 W. FOURTH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501
PHONE: (907) 269-5100

1
2 6. At 1:06 p.m. on November 7, 2008, I received another call from
3 "API Taku Nursing Station." API employee Rich had not been informed of the
4 restriction on Respondent's ability to place phone calls to me, and stated that
5 Respondent wanted to talk to me about his legal representation.

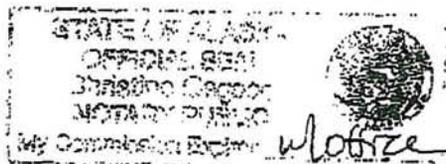
6 7. At this time, Respondent stated that he wanted me to be his
7 attorney and that "Gottstein is out." I explained to him that I was not and could not be
8 his attorney, that I represented the State of Alaska, and that if he wanted to discuss his
9 representation, he should address it with his guardian, Jonathan Hughes. Respondent
10 continued to state that he wanted me as his attorney, and "no Gottstein." I requested to
11 speak to Rich, and instructed him that Respondent was not permitted to place telephone
12 calls to me.

13 8. I have not initiated any telephone calls to Respondent, and I did not
14 give Respondent my business card with the intention that he call me. When Respondent
15 did call me, I did not engage in a conversation about the subject of his representation by
16 Mr. Gottstein or the public defender's office. I clearly and consistently explained to
17 Respondent that I was not his attorney and could not speak to him. I instructed the staff
18 of API to not allow such phone calls in the future.

19 Further your affiant saith naught.

20 *Jim A. Belland*

21 SUBSCRIBED AND SWORN to before me on this 7th day of
22 November, 2008.



24 *Anna Osmond*
25 Notary Public in and for Alaska
26 My commission expires with office

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