Psych Rights® | Law Project for Psychiatric Rights

March 3, ~~2018~~2014

Judge Erin B. Marston
825 W. Fourth Ave.
Anchorage, Alaska 99501

Re: ITMO Bret Bohn Case No: 3AN-13-02737PR
Administration Rule 37.7 Request:

Dear Judge Marston:

Pursuant to Administration Rule 37.7, common law, and the constitutions of the United States and Alaska, this is to formally request that access be granted to:

1. the case file,
2. exhibits,
3. recordings of proceedings, and
4. other materials, if any,

in *In the Matter of the Protective Proceeding of Bret Byron Bohn*, Case No. 3AN-13-02737PR.

A. <u>The Law</u>

(1) Alaska Law

AS 13.26.013 provides for confidentiality of guardianship proceedings in pertinent part as follows:

> (a) A notice of the filing of a petition, a summary of all formal proceedings, and a dispositional order or modification or termination of a dispositional order relating to a proceeding under this chapter shall be available for public inspection. All other information contained in the court records relating to a proceeding under this chapter is confidential and available only upon court order for good cause shown . . ..

Administrative Rule 37.7 provides a mechanism for allowing access to such confidential records:

> (a) Allowing Access to Non-Public Records. The court may, by order, allow access to non-public information in a case or administrative record if the court finds that the requestor's interest in disclosure outweighs the potential harm to the person or interests being protected, including but not limited to:

(1) risk of injury to individuals;
(2) individual privacy rights and interests;
(3) proprietary business information;
(4) the deliberative process; or
(5) public safety.

Non-public information includes information designated as confidential or sealed by statute or court rule and public information to which access has been limited under Administrative Rule 37.6. A request to allow access may be made by any person or on the court's own motion as provided in paragraph (b).

(b) Procedure. Any request to allow access must be made in writing to the court and served on all parties to the case unless otherwise ordered. The court shall also require service on other individuals or entities that could be affected by disclosure of the information. A request to allow access, the response to such a request, and the order ruling on such a request must be written in a manner that does not disclose non-public information, are public records, and shall not themselves be sealed or made confidential.

(2) United States Constitutional and Common Law

In *Craig v. Harney*, 331 U.S. 367, 374 (1947), the United States Supreme Court noted, that "[a] trial is a public event. What transpires in the court room is public property."

In *Nixon v. Warner Communications*, 435 U.S. 589, 597, 98 S.Ct. 1306, 1312 (1978), citing to *Sloan Filter Co. v. El Paso Reduction Co.*, 117 F. 504 (CC Colo.1902); *In re Sackett*, 30 C.C.P.A. 1214 (Pat.), 136 F.2d 248 (1943); *C. v. C.*, 320 A.2d 717, 724-727 (Del.1974); *State ex rel. Williston Herald, Inc. v. O'Connell*, 151 N.W.2d 758, 762-763 (N.D.1967); *Ex parte Uppercu*, 239 U.S. 435, 36 S.Ct. 140, 60 L.Ed. 368 (1915); *Ex parte Drawbaugh*, 2 App.D.C. 404 (1894); and *United States v. Burka*, 289 A.2d 376 (D.C.App.1972), the United States Supreme Court stated.

It is clear that the courts of this country recognize a general right to inspect and copy public records and documents, including judicial records and documents.

This right is not absolute, however, and at that time, the United States Supreme Court said:

It is difficult to distill from the relatively few judicial decisions a comprehensive definition of what is referred to as the common-law right of access or to identify all the factors to be weighed in determining whether access is appropriate.[1]

One of the cases cited with approval by the United States Supreme Court in *Nixon*, as cited above, is *State ex rel Williston Herald*, in which the court made clear that the right to have the "hearing" open to the public necessarily includes access to the court file, subject to

[1] 435 U.S. at 598-9, 98 S.Ct. at 1312

reasonable regulation. In rejecting the contention that any information the seeker of the information wanted could be obtained by going to the public hearing, the court held:

> We have carefully considered this entire question. We believe that it is the right of the public to inspect the records of judicial proceedings after such proceedings are completed and entered in the docket of the court.[2]

In *Baby Doe v. Methacton School District*, 878 F.Supp.40 (E.D.Pa. 1995) the question was whether documents filed in connection with a child sexual molestation case should be open for public inspection. The court there first discussed the general principles involved, including recognizing there is a constitutional right of public access:

> In the United States, there is a strong tradition of public access to both criminal and civil trials and the resulting judicial records. This tradition is based on both the common law right to access doctrine as well as the First Amendment. *Pansy*, 23 F.3d at 780-81; *Publicker Indus., Inc. v. Cohen*, 733 F.2d 1059, 1066, 1070 (3d Cir.1984). . . .
>
> Courts should take the least restrictive course when ruling on these matters.

The court then went on to weigh Baby Doe and her family's interest in keeping the records secret, against the public's right to access:

> We turn now to our decision to seal the entire file in the action. PNI asserts that the public has an interest in this action because defendants are two public school districts and its officials, and because it involves the sexual molestation of a child by her school teacher. It alleges that the public has an interest in learning what knowledge the school districts had when they hired and fired the school teacher, whether any other children were molested by the teacher, whether any decision-makers are still in decision-making positions with the schools, and whether any school employees were disciplined as a result of the events. . . .
>
> Plaintiffs argue that, in contrast to the public interest, the interest of the Plaintiffs, especially Baby Doe, is of overwhelming significance. They assert that Baby Doe is still a student at the school where she was molested and where the facts of the case are well known. They argue that:
>
> > [w]ere Baby Doe to be identified, or were facts disclosed that might lead to her identification, this minor child could sustain emotional upset, psychological damage, teasing by fellow students, different treatment by her teacher(s), etc. She could become a social outcast among her peers.
>
> * * *

[2] 151 N.W. 2d at 763.

> Given the effective arguments on both sides of this issue, we turn now to the balancing of the Plaintiffs' and the public's interests. Plaintiffs undoubtedly have a compelling interest in maintaining the seal. This Court agrees that Baby Doe was the victim of a heinous crime and should not be put at risk of suffering any additional harm. Potential embarrassment to her and her family is certainly an issue in this situation. *Pansy*, 23 F.3d at 787. . . .
>
> However, the case does involve public entities, and other parents have an interest in learning how their school districts address the issue of sexual molestation by teachers and whether the threat of abuse is taken seriously enough.[3]

Most recently, in *Delaware Coalition for Open Government, Inc. v. Strine*, 733 F.3d 510, 513-514, (3rd Cir. 2013), the United States Court of Appeals for the Third Circuit noted,

> "The First Amendment, in conjunction with the Fourteenth, prohibits governments from 'abridging the freedom of speech, or of the press....' " *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 575, 100 S.Ct. 2814, 65 L.Ed.2d 973 (1980) (quoting U.S. CONST. amend. I). This protection of speech includes a right of public access to trials . . .
>
> We have found a right of public access to civil trials, as has every other federal court of appeals to consider the issue.

(1) Alaska Constitution

I could not find any Alaska cases on this issue, but presumably Alaska's constitutional protections are as great as, if not greater than, under the United States Constitution.

B. <u>PsychRights' and the Public's Interest</u>

(2) PsychRights' Interest

The Law Project for Psychiatric Rights (PsychRights®) is a public interest law firm whose mission is to mount a strategic litigation campaign against forced psychiatric drugging and electroshock around the United States.[4] As part of its mission, PsychRights is further dedicated to exposing the truth about these drugs and the courts being misled into ordering people to be drugged and subjected to other brain and body damaging interventions against their

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[3] 878 F.Supp at 42-3.

[4] Appellate decisions include *United States v. King-Vassel*, 728 F.3d 707 (7th Cir. 2013; *Bigley v. Alaska Psychiatric Institute*, 208 P.3d 168 (Alaska 2009); and *Myers v. Alaska Psychiatric Institute*, 138 P3d. 238 (Alaska 2006).

will.[5] Since its founding in 2002, as part of its mission, PsychRights has posted many court documents in cases of interest.[6]

PsychRights has been critical of the legal process used to take people's rights away in order to confine them and force them to take psychiatric drugs against their will,[7] including criticizing that the public is almost always excluded from such proceedings.[8] To PsychRights' knowledge, except for clients represented by PsychRights who are notified of this right and asked for their position, no involuntary commitment or forced drugging proceeding had ever been open to the public despite AS 47.30.735(b)(3) providing that commitment hearings shall be open or closed to the public as the respondent elects,. PsychRights acknowledges many respondents have every reason to keep these proceedings confidential, but also points out that others "want the world to know what is happening to them."[9] With respect to guardianship proceedings, AS 47.26.113(a) similarly provides " the respondent has the right to . . . (4) have the hearing open or closed to the public as the respondent elects." I would be surprised if respondents are ever told of this right by OPA. They certainly haven't been informed of this right by the Public Defender Agency in commitment proceedings.

The confidentiality of these proceedings, especially in light of the incestuous relationships involved, raises grave concerns about their fairness. These concerns have manifested themselves publicly in this case.

(3) There Is Intense Public Interest In This Case

Mr. Bohn's parents, especially his mother, have been waging a public effort to free their son. This has included a protest against Providence Hospital attended by a dozen or so people. *See*, picture to right. There is also a Free Bret Bohn Facebook Page.

[5] *See*, PsychRights' Internet Home Page, http://psychrights.org/.

[6] *See*, e.g., *In the Matter of the Hospitalization of D.G.*;*United States ex rel Linda Nicholson v. Lilian Spigelman, M.D., Hephzibah Children's Association, and Sears Pharmacy*; *United States and the State of Wisconsin ex rel. Dr. Toby Watson v. Jennifer King-Vassel*; *United States ex rel Law Project for Psychiatric Rights v. Matsutani, et al.*; *Forced Drugging of Bill Bigley*; *Law Project for Psychiatric Rights v. State of Alaska, et al. Myers v. Alaska Psychiatric Institute*; *Wetherhorn v. Alaska Psychiatric Institute*; *Wayne B. v. Alaska Psychiatric Institute*; and The Zyprexa Papers Scandal. These web pages have links to all of the important documents filed in the respective cases, most of which have been uploaded to PsychRights' website.

[7] *See*, Involuntary Commitment and Forced Psychiatric Drugging in the Trial Courts: Rights Violations as a Matter of Course, by James B. (Jim) Gottstein, 25 *Alaska L. Rev.* 51 (2008)

[8] *Id*. at 83.

[9] *Id*.

As a result, the media, including a number outside of Alaska have run stories on this case:

- Patient rights vs. treatment: A complex question, *KTVA Channel 11*, February 28, 2014.
- Alaska family claims hospital is medicating son against his will, New York *Daily News*, February 28, 2014.
- Update: Bret Bohn Now a Ward of the State, *Northern Light*, February 27, 2014.
- Controversy surrounds hospitalization of Anchorage man taken into adult custody, *Alaska Dispatch*, February 27, 2014.
- With son hospitalized, family seeks answers, KTVA, Channel 11, February 26, 2014
- Family Fights to Visit Son Declared Ward of the State, KTUU, Channel 2, February 26, 2014
- Alaska Family Living In 'Nightmare' After Son Declared Ward of State Following Hospital Visit (UPDATED), *The Blaze*, February 26, 2014
- Man's medical condition leads to indefinite detention, forced medication, *Police State USA*, February 23, 2014.
- Man allegedly held against will at hospital *Northern Light*, January 14, 2014.

In Man's medical condition leads to indefinite detention, forced medication, there is a link to this Court's February 7, 2014, Order And Findings Granting The Appointment Of Full Guardianship Of Bret Bohn To The Office Of Public Advocacy (February 7th Order) which has been cited by *KTVA*, *KTUU* and the *Alaska Dispatch*. Mr. Bohn's parents' attorneys have issued a Press Release, that stated, among other things, "Judge Marston actually found that Bret's mother intended to harm him—despite clear evidence to the contrary."

C. There Are Very Troubling Aspects of This Case Important to the Public

Bret's mother has been very vocal about the proceedings in this case being unfair. This Court's February 7th Order, 2014, which has made its way into the public domain,[10] makes very harsh findings against Ms. Phillips to justify deviating from the statutory priorities for appointment of a guardian. One thing that is evident in the Order is the Court's view that disagreeing with medical advice is grounds for denying appointment as guardian. This is circular because the guardian is supposed to exercise independent judgment as to whether to follow such advice. By e-mail I forwarded this Court's February 7th Order to Fred Baughman, MD., a renowned neurologist asking him of his views of the neurological aspects of the February 7th Order, and he e-mailed back that "chronic systemic steroid treatment can cause insomnia and disorientation and lorazepam and zolpidem can likewise cause all such complications." He also wrote Bret should be carefully withdrawn from all the drugs to determine what he looks like drug free. He also found it disturbing that the emergency room physicians prescribed symptomatic treatment (the zolpidem and lorazepam) because it never served the purpose of clarifying the diagnostic issues.[11]

[10] I found out about it when KTVA reporter, Bonney Bowman referred me to it.

[11] Exhibit 1.

In other words, Bret's parents' common sense instinct to stop the drugs after Bret's condition dramatically worsened immediately after they were given is supported medically. Providence, on the other hand, has every reason to assert its treatments were proper.

The incestuous relationships between Providence, Adult Protective Services (APS) and the Office of Public Advocacy wearing conflicting hats (OPA) are also very troubling. Providence is quoted by KTVA, Channel 11 as saying, "At any given time Providence has at least one patient for whom they are addressing guardianship issues."[12] In other words they have an ongoing relationship with APS, a state agency, to cause it to bring guardianship proceedings against patients Providence asserts are unable or unwilling to voluntarily submit to procedures desired by Providence. Then OPA, another state agency, with whom Providence also no doubt has an ongoing relationship, is appointed to represent the respondent, with a Court visitor paid by OPA to purportedly provide independent advice to the Court. This occurs even when, as here, OPA, itself, is proposed to be the guardian. Providence, OPA and APS work together all the time, supporting each other. There is thus, at a minimum, the appearance of collusion. This Court's apparent complete deference to these parties' representations raises serious concerns about the fairness of the proceedings.

The Alaska Supreme Court was also troubled. In its December 26, 2013, Order in S-15409, Bret's parents' Petition for Review, the Alaska Supreme Court noted:

> The superior court ordered that "[t]he appointment of the Office of Public Advocacy is in the best interest of the ward, *because there are no other individuals who are willing to be appointed and act in the best interest of the respondent*" yet in the same order it ruled that "[a]ny powers of attorney currently in place are suspended pending further court action." Without the benefit of findings of fact explaining its order, it seems odd that the first order could be issued given that the parents clearly appear willing and desirous of being appointed as guardian and indeed have legal priority for consideration. There may have been good reason not to appoint them and to suspend their power of attorney, but the record before the court includes no findings or explanation.
>
> Perhaps most troubling, it does not appear the parents received notice of the State's petition for temporary guardianship and to date have not been given an opportunity to be heard and to challenge the State's evidence.

(Emphasis supplied by Alaska Supreme Court).

Another troubling aspect of this case is that it appears this Court has never actually heard from Bret. Instead, it has relied upon representations of Providence and OPA, and videos, to decide that is inappropriate for Bret to testify:

> Mr. Bohn's parents believe he is lucid enough to testify on his own behalf and can refute the medical records and professional testimony. The Court has seen video of Mr. Bohn that was introduced by the parties and finds that his current state and

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[12] *KTVA Channel 11* Nightcast, February 25, 2014.

> medical condition makes it inappropriate to have him testify. The videos also indicate incapacity. Mr. Bohn appeared in all video evidence to have flat affect and he exhibited no independent judgment.[13]

Frankly, it seems extremely cavalier for this court to have stripped Mr. Bohn of all decision making rights without even giving him a chance to testify. That he has a "flat affect" is very likely the result of the drugs. This court should ask him specific questions to determine if he can express his own views on what he desires. I have viewed various videos of Mr. Bohn on line and I see the flat affect, I see the slowed and slurred speech, but it looks to me like it could very well be the drugs. It also looks to me that Mr. Bohn may very well be capable of providing the court with his views.

This view is independently corroborated by the *Northern Light* story, Update: Bret Bohn now ward of the state, which reports:

> Erik Guzman, Bohn's long-time friend, spent as much time at the hospital as he could supporting Bohn and would often spend nights at Bohn's bedside.
>
> Guzman said he saw a lot of changes in Bohn by the time he entered the hospital to the last time he was permitted to visit Bohn on Dec. 24. Guzman said on some days Bohn was coherent and talkative, *but began to deteriorate quickly after the many medical tests he was given*.
>
> Some of these tests included MRIs, spinal taps and blood transfusions, which all came back negative.
>
> According to Guzman, Bohn had needle holes along his spine and complained his back hurt. Eventually Bohn became agitated, and at one point, he fought five security guards and several nurses while attempting to remove his IVs and catheter so he could leave on his own.
>
> Guzman said during one of his visits, Bohn said, "I'm tired. I'm beat up. I just want to go home. I'm tired of being poked. My back hurts. I'm tired of getting needles in my back. I'm tired and just want to go home."[14]

My view is the Court should have heard directly from Mr. Bohn, in person, asking him his views.[15] It is hard for me to see how in such circumstances any responses would not be independent. However, I could imagine that Mr. Bohn cannot answer at all. Maybe he can answer, but his responses would make no sense to the Court. More likely, Mr. Bohn would express opinions at odds with what Providence wants to do. Maybe the Court would determine that Mr. Bohn's views should not be honored, but that is a different matter than not even hearing from him. Frankly, I find the Court's refusal to

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[13] February 7th Order, page 10.

[14] Exhibit 2, emphasis added.

[15] Such a hearing could be held in Mr. Bohn's hospital room or otherwise in the hospital if there is concern transporting Mr. Bohn to the courthouse would be too risky.

allow Mr. Bohn to speak for himself abhorrent. I suspect this seems an extreme condemnation, but I hope when the Court thinks about having stripped Mr. Bohn of all his decision making rights without even allowing him a chance to convey his views it will understand why I use such a strong word.

D. Argument

There are no cases interpreting Administration Rule 37.7, but PsychRights respectfully suggests that the public's interest in disclosure outweighs any potential harm to Bret, especially since this case is already the subject of so much media and public attention and discussion. His name cannot be protected because it has already been disclosed. It is hard to see any interest in continuing to keep the proceedings in this case secret other than to insulate Providence, APS, OPA and, frankly, this Court from public scrutiny. These are not proper considerations under Administration Rule 37.7. The benefit from disclosure is that the public will be able to see both sides. Providence, *et al*., may argue that the Health Insurance Portability and Accountability Act of 1996, Pub.L. No. 104-191, §264, 110 Stat. 1936 (HIPAA), prohibits such disclosure. That is not the case. This Court is not subject to HIPAA. It is subject to different confidentiality rules, as set forth above. However, even though Providence may be prohibited from HIPAA from responding to questions from the media and public directly, whatever arguments and evidence it has presented in court would be available for review by the public.

The *Baby Doe* case is particularly instructive here because even though Baby Doe had a strong interest in keeping the court file closed, the court found that was outweighed by the public interest in being able to monitor the functioning of a public agency. There it was the school district, while here it is the State of Alaska, wearing 4 different hats, three of them through OPA, obtaining invalidation of a power of attorney and taking away all of a person's decision making rights. Frankly, the role of this court in acceding to this is of great public interest as well. In *Baby Doe* there was a strong interest in privacy countervailing disclosure. In this case, it is completely unclear that Mr. Bohn has any interest in secrecy. OPA's expression of any interest in secrecy, including under its guardian *ad litem* hat purporting to speak for Bret should be given no heed whatsoever in light of its conflicts of interests.

Since *Nixon* was decided by the United States Supreme Court, the considerations with respect to when it is permissible to close court documents from public access have become fairly clear through lower court decisions. The question is a balancing of the party's interest seeking secrecy versus the public's general right of access. As set forth above, one of the prime reasons for the right of public access is "in keeping a watchful eye on the workings of public agencies."[16] And *Baby Doe* makes clear that having a public agency involved, such as here, is an extremely strong factor in making the file open to the public. Here, it is not even clear that Bret Bohn has any interest in keeping the record secret (as distinguished from OPA as guardian *ad litem*, OPA as Guardian, Providence, and APS).

In addition to the actions of Providence in concert with APS and OPA, the actions of this Court in this case are of intense public interest. The February 7th Order somehow made its way into the public domain and excoriates Bret's parents, making them out to be irrational and, with

[16] *Kamakana v. Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006).

respect to his mother, actively wanting to harm Bret. The latter is very dubious on its face, but the actions of their lawyer, Rhonda Butterfield, in turning on her clients is extraordinary and gives one pause.

The February 7th Order recites that the Court heard 12 days of testimony. Was all of it against Bret's parents? That is the impression given in the February 7th Order. What was introduced to rebut Ms. Butterfield's testimony? Was Erik Guzman called to testify? If so, why wasn't his testimony even mentioned in the February 7th Order. Were there no witnesses called on Bret's parents' behalf?

This calls into question the actions of Providence, Adult Protective Services and the Office of Public Advocacy (exercising three supposedly separate roles, including two that directly conflict with each other) and this Court in stripping the rights of Bret Bohn without even allowing him to speak to this Court. Perhaps all of this is justified by what is in the court record, but that cannot be evaluated by the public unless access is granted.

This case cries out for the light of public scrutiny.

It is for these reasons I strongly urge you to allow public access to the case file and other records in *In the Matter of the Protective Proceeding of Bret Byron Bohn*, Case No. 3AN-13-02737PR.[17]

Sincerely,

James B. (Jim) Gottstein, Esq.

cc (*via* e-mail): Elizabeth Russo
Nevhiz Calik-Russell
Carolyn Perkins,
Mario Bird
Collene. Brady-Dragomir
John "Tony" Bove
Christopher Slottee
Rhonda Butterfield
KTVA Channel 11 (Bonney Bowman)
KTUU Channel 2 (Mallory Peebles)
Alaska Dispatch (Laurel Andrews)
Anchorage Daily News

[17] A copy of this letter with working hyperlinks is available at http://psychrights.org/States/Alaska/BretBohn/BretBohn.htm

James B. (Jim) Gottstein

From: Dr. Fred Baughman <fredbaughmanmd@cox.net>
Sent: Saturday, March 01, 2014 1:51 PM
To: James B. (Jim) Gottstein
Subject: Re: Bret Bohn Court Order

Hey Jim, this appears to me to be a complicated case and still a diagnostic problem. There are seizures delirium and insomnia and we have a patient on many drugs with more drugs added when he went to the emergency room chronic systemic steroid treatment can cause insomnia and disorientation and lorazepam and zolpidem can likewise cause all such complications. As I see it all such cases should begin with waiting the patient from all medications to see what the drug free patient looks like that is to see if any symptoms or signs persist. I would guess that there aren't too many second opinion opportunities available where these folks live. If I were consulted the first thing I would do would be to remove him gradually from all medications particularly any with a potential no matter how remote of causing central nervous system dysfunction I find it a bit disturbing that emergency room physicians choose to prescribe symptomatic treatment such as zolpidem and lorazepam this never served the purpose of clarifying remaining diagnostic issues. All the best, Fred

From: James B. (Jim) Gottstein
Sent: Thursday, February 27, 2014 2:51 PM
To: Fred Baughman MD
Cc: jim.gottstein@psychrights.org
Subject: Bret Bohn Court Order

Hi Fred,

Would it be possible for you to give me some quick thoughts on the neurological aspects of the attached order. In particular, it seems to me that Ativan and Ambien in combination are not unlikely to cause seizures (in addition to already knowing that prednisone can cause psychosis).

James B. (Jim) Gottstein, Esq.
President/CEO

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The Law Project for Psychiatric Rights is a public interest law firm devoted to the defense of people facing the

Exhibit 1

horrors of forced psychiatric drugging and electroshock. We are further dedicated to exposing the truth about these drugs and the courts being misled into ordering people to be drugged and subjected to other brain and body damaging interventions against their will. Currently, due to massive growth in psychiatric drugging of children and youth and the current targeting of them for even more psychiatric drugging, PsychRights has made attacking this problem a priority. Children are virtually always forced to take these drugs because it is the adults in their lives who are making the decision. This is an unfolding national tragedy of immense proportions. Extensive information about all of this is available on our web site, http://psychrights.org/. Please donate generously. Our work is fueled with your IRS 501(c) tax deductible donations. Thank you for your ongoing help and support.

Exhibit 1

THE NORTHERN LIGHT

(http://www.thenorthernlight.org)

(http://thenorthernlight.campusave.com//)

Update: Bret Bohn now ward of the state

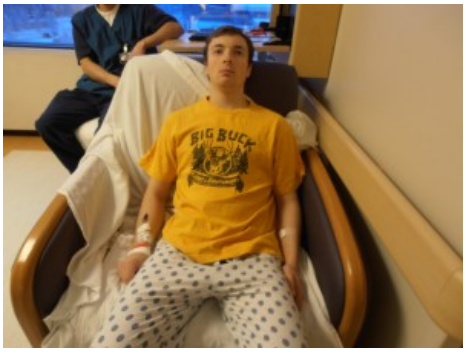
February 27th, 2014 Suhaila Brunelle (http://www.thenorthernlight.org/author/bethany-brunelle/)
(http://www.thenorthernlight.org/wp-content/uploads/2014/02/P1010003.jpg)

Photo courtesy of the Bohn family.

After 12 days in court, Lorraine Phillips-Bohn and her husband say their son, Bret Bohn, is now under guardianship of the state against his will. Bohn's family claims hospital officials and ruling Superior Court Judge Erin B. Marston have ignored their son's original power of attorney, which gave Bret Bohn's parents the right to make medical decisions on behalf of their son.

Bohn's general power of attorney and health care power of attorney were drafted in 2007, before Bohn's current illness.

According to court documents, during the course of Bohn's medical treatment at Providence Alaska Medical Center, his parents informed the medical staff of these documents and began acting accordingly.



Shortly after Bohn's parents began acting in accordance to their son's power of attorney, "a conflict soon arose between the medical staff and Bohn's parents, who said that Bohn was being overly medicated and wanted their son to stop using any medications and leave the hospital immediately." The document goes on to say that Bohn's parents ignored medical advice from doctors at Providence that their son was gravely ill and could die if removed from the hospital.

After several nights of insomnia, Bohn's parents brought him to the Providence Alaska Medical Center emergency room to seek treatment on Oct. 16, 2013. During this first emergency room visit, Bohn was given two prescriptions, one for anxiety, the other for sleep, then was released to go home.

Phillips-Bohn says after taking these medications, her son experienced a seizure and was brought back to the emergency room. While in the emergency room for the second time, Bohn experienced two more seizures and was admitted into the intensive care unit, where he stayed for several days.

Bohn's parents were told their son would be released to go home with them on Oct. 22.

However, officials at Providence moved him to the fifth floor medical unit instead of the promised discharge.

According to Phillips-Bohn, her son remained on the fifth floor of the hospital for weeks, and doctors treated him with as many as 22 different medications at one time without a proper diagnosis.

Erik Guzman, Bohn's long-time friend, spent as much time at the hospital as he could supporting Bohn and would often spend nights at Bohn's bedside.

Guzman said he saw a lot of changes in Bohn by the time he entered the hospital to the last time he was permitted to visit Bohn on Dec. 24. Guzman said on some days Bohn was coherent and talkative, but began to deteriorate quickly after the many medical tests he was given.

Some of these tests included MRIs, spinal taps and blood transfusions, which all came back negative.

According to Guzman, Bohn had needle holes along his spine and complained his back hurt. Eventually Bohn became agitated, and at one point, he fought five security guards and several nurses while attempting to remove his IVs and catheter so he could leave on his own.

Guzman said during one of his visits, Bohn said, "I'm tired. I'm beat up. I just want to go home. I'm tired of being poked. My back hurts. I'm tired of getting needles in my back. I'm tired and just want to go home."

Phillips-Bohn said she tried to get her son to stay at the hospital even though he wanted to leave, because she wanted him to get well. But officials are saying she tried to help him escape.

Of this incident, Guzman said, "He tried to voluntarily leave the hospital. … He had been wanting to get out since the first week he was there. He decided he was going to walk out of the hospital because they were not going to let him out. He walked halfway down the floor he was on and that's as far as he went."

Bohn's family members eventually asked for a transfer to Alaska Regional Hospital for a second opinion, but they say this request was denied.

The last time Bohn was seen by friends and family was in December, and he was wearing an ankle bracelet monitor in order to prevent any further escape attempts.

After months of tests, and while the issue of guardianship was before the court, Bohn was finally diagnosed with autoimmune encephalitis.

Dr. Souhel Najjar, a nationally known expert on autoimmune encephalitis, explained there are several types of the disease.

"Autoimmune encephalitis is a disorder in which a body turns against its brain," he said in a phone interview. "The body produces antibodies that target the brain tissue and cause inflammation in multiple areas of the brain."

One of the systems that can be affected is the limbic system, which is the area of the brain that affects emotion and behavior.

Najjar said, "It is not unusual that the patients (with autoimmune encephalitis) will be mistaken for a mental disorder."

According to Najjar, there is an 80 percent survival rate for patients who have been diagnosed with autoimmune encephalitis if the disease is caught early and treated aggressively with proper medication.

Since Bohn is now a ward of the state, the court-appointed guardian and medical team can authorize Bohn's hospitalization and treatment plan.

In an open letter to the Legislature dated Feb. 19, 2014, Providence Alaska Medical

Center outlines policies regarding patient privacy laws, and rules about the role of court-appointed guardians and visitation. The following is an excerpt from the open letter.

> *"State law requires health care providers to make reports of harm to Adult Protective Services whenever they have reasonable cause to believe a vulnerable adult suffered abuse or neglect. Under state law, when a patient is not competent to make medical decisions on heir own behalf, their (1) guardian, (2) health care agent, or (3) surrogate are allowed to make heath care decisions on their behalf. Health care providers are permitted under state law, and required by their standard of care, to decline to comply with the direction of a surrogate if they determine that the surrogate is not abiding by the wishes, values and best interest of the patient. AS 13.5w.060(h). Health care providers are also permitted under state law, and required by their standard of care, to decline to comply with the direction of a guardian, agent, or surrogate if that direction requires health care that is contrary to generally accepted health care standards. AS 13.52.060(f)*
>
> *When a temporary or permanent guardian is appointed by the court for a patient, that guardian will, in most cases, have the sole authority to make health care decisions on behalf of the patient, including decisions regarding medication and ho long the patient should stay in the hospital.*
>
> *Accordingly, when a guardian the sole authority to make health care decisions for the patient, Providence confers with the guardian regarding the treatment of the patient and obtains the necessary consent to treatment from the guardian.*
>
> *Providence only restricts visitation to a patient when that patient request no visitors or when restricting visitation is medically necessary and in the best interests of the patient. There are many different types of medical situations in which restricting visitation, including visitation by family members may be medically necessary. Providence attempts to work with the family and the patient to reinstitute visitation as soon as doing so is both in the best interest of the patient and requested by the patient.*
>
> *For patients that do not have capacity and have a guardian appointed, Providence also confers with the guardian in regards to any restrictions on visitation."*

The last time family and friends spoke to Bohn, he told them he does not trust anyone at Providence. Bohn allegedly said, "I tell them no, but they don't listen."

Bohn's parents believed their son when he said that, stating they witnessed Bohn's objections to treatment first-hand, as well as the medical staff ignoring his requests not to be medicated.

According to the court, the Bohn family sought advice from lawyer and family friend Rhonda Butterfield in late October. The documents say Butterfield met with Bohn's parents and Providence doctors to discuss Bohn's treatment, specifically the medications he was receiving.

The papers say, "After subsequent meetings with Ms. Phillips, Ms. Butterfield began to have 'very serious concerns' for Mr. Bohn's safety at the hands of Ms. Phillips. Ms. Phillips was quoted to have told Ms. Butterfield that 'I would rather (Bret) die in my arms than have any more drugs' and added that she would 'start making funeral arrangements' for Mr. Bohn."

Testimony by Bohn's physician Dr. Joseph J. Krakker, adult nurse practitioner Heather Brock and Dr. Peter Abraham, along with medical records provided to the court, stated that due to Bohn's symptoms of delirium, hallucinations and incontinence, Bohn was unable to testify on his own behalf.

"I think one of the takeaways is, this can really happen to anyone and people's rights are regularly ignored when this sort of thing happens," Jim Gottstein, a lawyer with the psychiatric rights law project Psych Rights, said. "It's kind of like their rights are ignored legally, like when the U.S. stole the land from the Indians fair and square. Not always, but in this case, they violated his rights but they seem to have a court order so someone can say his rights weren't violated, but when you look at what happened you can say that his rights were. Now one thing that's clear is no one can really talk to Bret to see how he feels about this, which I think is really important — and that's not to doubt in any way what the parents are saying."

Phillips-Bohn said she loves and misses her son, and her arms are aching to hold him and to hug him.

"It's the same feeling when I lost my first son, who was still-born. I ached to have a baby in my arms, to love. … He's (Bohn) an adult now, but he's my son, and I love him," she said. "I just want him to know, and I feel that he knows that (that I love him), because we are real close."

The court documents say, "Mr. Bohn's parents have continued to act independently of medical opinion and the course of treatment prescribed by Mr. Bohn's doctors. Therefore, the Office of Public Advocacy must be appointed to meet the best interests of Mr. Bohn as to his medical decisions."

The documents later say Bohn's parents, family and friends do not have the ability to follow medical directives and treatment and this parents wish to stop their son's medication and treatment.

Butterfield stated to the court, "During the course of my conversations with Lorraine (Phillips-Bohn), it became crystal clear that Lorraine is adamantly, absolutely without exception, opposed to Bret having any medication, tests or medical treatment, even when his doctors deem it necessary and even when it means the difference between life and death."

A court visitor also substantiated Butterfield's statement regarding Phillips-Bohn's beliefs about medical treatment.

Under the law, Bohn's parents are no longer a party to their son.

View the original Bohn story here: http://www.thenorthernlight.org/2014/01/14/man-allegedly-held-against-will-at-hospital/
All information regarding the court case came from Police State USA

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