

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

In the Matter of the)
Hospitalization of:)
FAITH J. MYERS,)
Respondent.) Case No. 3AN 03-00277 PR

MOTION TO ACCEPT FILING COPY OF AFFIDAVIT FROM API'S LAUREL SILBERSCHIDT AS COMPLIANT WITH THE COURT'S 5-17-03 ORDER RECEIVED AFTER THE CTC ASSESSMENT & DENIAL OCCURRED

The Department of Health and Social Services, Division of Mental Health and Developmental Disabilities, Alaska Psychiatric Institute (API or "the Hospital"), through the Alaska Attorney General's Office, hereby submits its Motion to Accept Filing of Affidavit from API's Laurel Silberschmidt as Compliant with the Court's 5-17-03 Order Received After the CTC Assessment and Denial Occurred.

In support thereof, the Hospital states as follows:

1. In response to Respondent's Motion for Reconsideration and assertion that the Crisis Treatment Center may accept Respondent, and that therefore a "less restrictive" placement option might exist, the Hospital last week sent a referral over to the CTC to evaluate whether this was in fact a possibility.

On 5-16-03, Ms. Martha Hutchison, CTC clinician/administrator, assessed Ms. Myers. After a review of Ms. Myers' case file and treatment information - including a personal interview with Ms. Myers by Ms. Hutchinson - CTC determined that Respondent is not appropriate for admission to CTC presently. See attached affidavit of Laurel Silberschmidt, dated May 23, 2003.

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2. The Court issued its Order on Motion for Reconsideration on May 17, 2003, which was received by counsel on May 20, 2003. The court ordered the Hospital to "arrange for Ms. Myers to be evaluated by personnel from CTC to determine whether therapy at CTC represents a less restrictive treatment alternative for Ms. Myers." Order on Motion for Reconsideration, at page 4. The order provides further that "Mr. Gottstein shall be notified in advance of the timing of the evaluation and a written report regarding the outcome of the evaluation should be filed, in chambers, as soon as possible." Id. at page 5.

3. On May 21, 2003, Counsel spoke with Ms. Hutchison who stated to him that she could not speak with him about the specifics of Ms. Myers' case without a release or court order so authorizing. Counsel provided her with a copy of the court's order¹ and Ms. Hutchison stated that her report might be completed by the end of today at the earliest but "Monday would be preferable." [given the three-day holiday weekend, counsel interprets "Monday" as Tuesday May 27, 2003]. Counsel will file the report immediately upon receipt.

4. The hospital respectfully submits that the affidavit represents substantial compliance with the court's order. As stated, the assessment had already been requested, conducted, and Ms. Myers' admission denied by CTC before the court issued its order on May 17, 2003.

The hospital further submits that it does not make sense for CTC to conduct another assessment as to do so would be a waste of time, would further delay these proceedings, and

¹ Counsel provided Ms. Hutchison with copies of Respondent's election to open the proceedings up to the public, confirmation that I am legal counsel who represents API, in addition to the court's order. Ms. Hutchison indicated that the CTC confidentiality experts could address her concerns next week. In order to eliminate Ms. Hutchison's concerns over confidentiality and to minimize yet further delays, counsel chose to take himself out of the communication loop so Ms. Hutchison and API will communicate directly.

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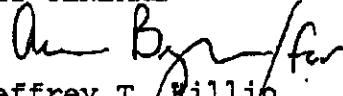
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2 would unnecessarily delay Ms. Myers' successful discharge from
3 the Hospital. This is especially true in light of the fact
4 that a three-day holiday weekend is upon us.

5 5. The Hospital's motion is supported by the
6 affidavits of Laurel Silberschmidt and counsel attached hereto.

7 Based on the foregoing, Respondent's Motion to Accept
8 Filing of Affidavit from API's Laurel Silberschmidt as
9 Compliant with the Court's 5-17-03 Order Received after the CTC
10 Assessment and Denial Occurred should be GRANTED.

11 DATED: 5/23/03

12 GREGG D. RENKES
13 ATTORNEY GENERAL

14 By: 
15 Jeffrey T. Killip
16 Assistant Attorney General
17 Alaska Bar No. 9204005

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STATE OF ALASKA

DEPT. OF HEALTH & SOCIAL SERVICES

DIVISION OF MENTAL HEALTH & DEVELOPMENTAL DISABILITIES
ALASKA PSYCHIATRIC INSTITUTE

FRANK H. MURKOWSKI, GOVERNOR

2900 PROVIDENCE DRIVE
ANCHORAGE, AK 99508-4877
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AFFIDAVIT

Re: MYERS, Faith
API #: 01-51-62

On approximately 5/6/03, Acting Social Worker IV Mark Kraft, LCSW, at the request of API administration, directed this writer to speak with the patient, Ms. Faith Myers, regarding a possible referral to Southcentral Counseling Center Crisis Treatment Center. This writer's intent was to discuss this matter with the patient at treatment team on 5/7/03. She declined attending this treatment team meeting. Later in the day, I met with Ms. Myers to discuss a Release of Information to make the referral. She refused to allow any release of any information except her name. At this point, I staffed the case with attending psychiatrist, Robert G. Hanowell, M.D. It was felt an appropriate referral could not be made if background information could not be provided.

A further request was made by acting supervisor, Kraft, to make the referral, despite the patient's refusal for ROI for anything except her name. I met with the patient again to discuss possible release of additional information. She again declined. Clinician Martha Hutchison of Southcentral Counseling Center was contacted regarding the referral, and given only the patient's name.

Ms. Hutchison came to API 5/8/03 to see Ms. Myers. She had a copy of a Release of Information form signed by the patient which apparently had been generated by the patient's attorney, James Gottstein. In checking the chart, an identical Release of Information was found signed by the patient, however, they were signed in different fashions. This writer met with Ms. Hutchison and API CEO Ron Adler concerning this matter. This writer then again approached the patient regarding her desires. The patient became agitated, stated the documents were forged and tore them up. Ms. Myers did meet with Ms. Hutchison that day, but no information or chart access was allowed.

Ms. Hutchison returned to API 5/8/03 with an ROI's generated by attorney James Gottstein. Ms. Myers agreed to the Release of Information, but she had added to the document. This writer spoke with Doreen Booth, of the Health Information Management Systems Department of the Alaska Psychiatric Institute. A discussion ensued regarding the acceptability of the form for release of records. Ms. Booth subsequently contacted the patient's attorney, James Gottstein, who spoke with both Ms. Booth and the patient. After Ms. Myers conferred with her attorney and with Ms. Myers' approval, Ms. Hutchison reviewed the chart and met with Ms. Myers.

On 5/15/03, this writer left a message for Ms. Hutchison to check on the patient's status with the Crisis Treatment Center. She returned this call on 5/16/03. This writer was in the office of Dr. Hanowell at the time. She stated the patient was not appropriate for CTC, as she did not want to go and would only go if there were an agreement concerning the length of stay and no follow-up treatment. Ms. Hutchison also stated that Ms. Myers appears to change her mind frequently and seemingly would not be a good faith candidate. She stated she would try to engage the patient for aftercare services. This writer has had no contact with Ms. Hutchison since the above interaction.

Affidavit
May 22, 2003
Page 2

23rd
DATED this 23rd day of May, 2003 at Anchorage, Alaska.

Paul Silberschmidt LCSW
Paul Silberschmidt, LCSW

SUBSCRIBED AND SWORN before me this 23rd day of May, 2003



Barbara Moroni
Notary Public in and for Alaska
My Commission expires: 2-17-2004

LS/ojb/MEMOLTR/7033E

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THIRD JUDICIAL DISTRICT AT ANCHORAGE

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FAITH J. MYERS,)
Respondent.)

Case No. 3AN 03-00277 PR

MOTION FOR EXPEDITED CONSIDERATION

The Department of Health and Social Services, through the Attorney General's Office, moves for an order, pursuant to Civil Rule 77 (g), granting expedited consideration of its Motion to Accept Copy of Affidavit From API's Laurel Silberschmidt as Compliant with Court's 5-17-03 Order Received After CTC's Assessment and Denial for Admission.

A decision is needed on the principal motion as soon as possible given the Hospital's interest in eliminating further delays to treatment and Ms. Myers' successful discharge. This motion is supported by the affidavits of API's Laurel Silberschmidt and of counsel.

As the court is aware, the Hospital continues to hold Ms. Myers as a patient since February 21, 2003 - more than three months now. The hospital continues to lack the ability to carefully administer psychotropic medication, and as a consequence, Ms. Myers' condition has continued to deteriorate with no progress being made towards successful discharge to another treatment program such as CTC.

DATED: 5/23/03

GREGG D. RENKES
ATTORNEY GENERAL

By:

Jeffrey T. Killip
Jeffrey T. Killip
Assistant Attorney General
Alaska Bar No. 9204005

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THIRD JUDICIAL DISTRICT AT ANCHORAGE

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FAITH J. MYERS,)
Respondent.)

Case No. 3AN 03-00277 PR

AFFIDAVIT

STATE OF ALASKA)
THIRD JUDICIAL DISTRICT) ss.

Jeffrey T. Killip, being first duly sworn upon oath,
deposes and says:

1. I am the Assistant Attorney General assigned to
this case.

2. Everything stated in these pleadings is true to
the best of my knowledge and belief.

3. At approximately 11:15 a.m. this morning, I
spoke with Mr. Gottstein about the motions. Counsel
understands from his comments that he opposes both motions.

Mr. Gottstein stated to me that he thought the motions
were "ridiculous." Mr. Gottstein stated that he did not
understand the exigency. I explained that from our perspective
the mandate of the court's order has been complied with, as
reflected by Ms. Silberschmidt's affidavit, and that no
progress continues to be made towards her treatment and
successful release.

Mr. Gottstein also challenged my factual summary that
I provided to him of Ms. Silberschmidt's affidavit concerning
the circumstances surrounding CTC's evaluation. I informed
Mr. Gottstein that Ms. Hutchison refuses to speak with me
about his client's case so I have no choice but to rely upon

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2 information provided to me from my client concerning CTC's
3 assessment. [Although I did not state this to Mr. Gottstein,
4 on about Wednesday (5-21-03), Ms. Hutchison provided Ms. Myers
5 with a release to authorize her to speak with me but it is my
6 understanding that Mr. Gottstein's client continues to refuse
7 to sign that release. As stated elsewhere in these pleadings,
8 I'm not sure such a release is even necessary but having taken
9 myself out of the informational loop has made that issue moot.]

10 Mr. Gottstein also commented on the fact that this is
11 yet another expedited motion filed on a Friday. I informed him
12 that I do not have time to calculate when motions like this are
13 filed in order to make anyone's life more difficult. Not only
14 do I not practice law in such a disrespectful manner [what goes
15 around comes around], but my caseload is too burdensome to even
16 allow for such calculating strategies. As is has turned out, I
17 could have filed a similar motion on Wednesday but I have been
18 trying to address the fact that Ms. Hutchison would not speak
19 with me about the Myers' case, which has delayed matters.

20 4. Because I have to cover another round of
21 hearings over at API this afternoon and must leave shortly,
22 because I don't have any control over when Ms. Hutchison will
23 complete her report and when it will ultimately be filed with
24 the court, because we have a three-day weekend upon us, and
25 because this lingering issue appears to need resolution before
26 the court addresses the stay issue, I have chosen to file this
27 motion now in hope of achieving final resolution of the motion
28 for reconsideration.

29 5. Counsel firmly believes that all of the
30 circumstances not only constitute a valid basis for these
31 motions but that exigency is justified.

AFFIDAVIT

ITMO: F.J.M.

JAN 03-00277 PR

Page 2 of 3

JK/LG/MEYRES/MYERS.MOTION FOR EXPEDITED CONSIDERATION.S2303.DOC

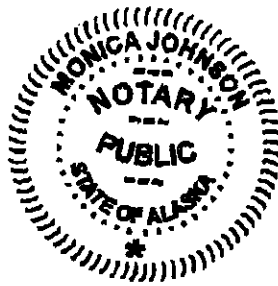
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6. Counsel apologizes for filing this motion on a Friday before the holiday weekend for those reasons stated above.

Further affiant saith naught.

[Signature]
Jeffrey T. Killip

SUBSCRIBED AND SWORN to before me this 23 day of May, 2003.



[Signature]
Notary Public in and for Alaska
My commission expires: 2/26/07

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