

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 S. Bigley                    )  
  )  
  )  
\_\_\_\_\_ )  
Case No. 3AN-08-01252 PR

TRANSCRIPT OF PROCEEDINGS  
BEFORE  
THE HONORABLE WILLIAM MORSE

Pages 1 - 23, inclusive  
November 3, 2008  
8:47 a.m.

APPEARANCES:  
  
For WB: James Gottstein, Esq.  
For the State of Alaska: Laura Derry, Esq. (by telephone)

1 ANCHORAGE, ALASKA; MONDAY, NOVEMBER 3, 2008; 8:47 a.m.  
 2 ---oOo---  
 3 (8:47:35)  
 4 THE COURT: We're on record in 3AN-08-01252.  
 5 Mr. Gottstein is in the courtroom.  
 6 Ms. Derry, you're on the phone?  
 7 MS. DERRY: Yes, Your Honor.  
 8 THE COURT: I set this on earlier this morning  
 9 simply to issue rulings on various pending motions. There  
 10 have been a flurry of filings, so I also want to use this  
 11 opportunity to see if there are -- if I'm missing  
 12 something. So -- and I just received a packet of  
 13 documents filed five minutes ago from Mr. Gottstein.  
 14 There was an original petition filed on the 21st  
 15 of October for commitment and medication, a second  
 16 petition for medication on October 27th. There is a  
 17 motion to dismiss the 838 petition, the commitment  
 18 petition, which was filed on October 30th.  
 19 MR. GOTTSTEIN: Your Honor, may I clarify? Do  
 20 you mind if I interrupt?  
 21 THE COURT: Go ahead.  
 22 MR. GOTTSTEIN: The motion to dismiss 838  
 23 count -- Your Honor, I think it's count -- the forced  
 24 drugging petition really has two bases. One is the basis  
 25 that was under reviewing Myers, and then the second one is

1 MS. DERRY: Yes, Your Honor. I ran it over  
 2 before the close of business on Friday.  
 3 THE COURT: All right. Did you file it in  
 4 chambers?  
 5 MS. DERRY: Your Honor, I filed it in the  
 6 probate and supplied a chambers copy.  
 7 THE COURT: All right. I haven't seen that, so  
 8 I won't rule on it until I get the opposition, but it  
 9 seems to me that it is highly unlikely that I'm going to  
 10 grant a motion for summary judgment, because it seems to  
 11 me that there's almost certainly a dispute over facts.  
 12 But I haven't read the opposition yet, so I won't rule,  
 13 but I will certainly rule here in the next -- shortly so  
 14 that the parties know whether the hearing on the 5th is  
 15 going forward.  
 16 I am denying the motion to hold the hearing at  
 17 the courthouse. It will take place, at least the initial  
 18 hearing -- on the assumption that it might be longer than  
 19 one day, the first day is going to take place at API. I  
 20 will review the request to have any subsequent hearings at  
 21 the courthouse based on my observation of several  
 22 things: Mr. Bigley's then current mental state and  
 23 apparent ability to control himself and to -- and to  
 24 minimize any risk to the public; and secondly, since I  
 25 have not personally seen the API's new -- not so much the

1 the police power emergency medication under AS 47.30.838,  
 2 and so that's what that motion to dismiss 838 motion is  
 3 about. It's still about the forced drugging petition.  
 4 THE COURT: The eight -- the motion to dismiss  
 5 838 is denied because I have issued an order committing  
 6 him already, and the State's second motion to commit is,  
 7 as far as I can tell, duplicative for an effort to perhaps  
 8 extend the timing, and so he's committed.  
 9 MR. GOTTSTEIN: Your Honor --  
 10 THE COURT: The second petition is dismissed.  
 11 The second petition by the State for commitment is moot,  
 12 as far as I can tell.  
 13 MR. GOTTSTEIN: Your Honor, we're not -- none of  
 14 this is about commitment. It's about forced drugging.  
 15 THE COURT: I appreciate that. But you filed a  
 16 motion to dismiss the 838 petition.  
 17 MR. GOTTSTEIN: The 838 count, which is part one  
 18 of two counts of the forced drugging petition, but has  
 19 nothing to do with the commitment. It has to do with  
 20 emergency --  
 21 THE COURT: The motion to dismiss is denied.  
 22 The motion for summary judgment, I have just  
 23 received from Mr. Gottstein a reply to an opposition that  
 24 I haven't seen yet. So I assume that the State filed an  
 25 opposition to the motion for summary judgment?

1 room itself, but I haven't been into API in quite some  
 2 time. I will review that request after I experience the  
 3 entry process and the publicness, if you will, of the  
 4 entire setting.  
 5 The motion for expedited consideration of the  
 6 various motions concerning the depositions and discovery,  
 7 the motion for expedited consideration is granted.  
 8 The motion for a protective order, to the extent  
 9 that it asserts that there is no discovery permissible, is  
 10 denied. Discovery is not only permissible implicitly by  
 11 825(b) and 839(d), but also the respondent has access to  
 12 information by court order which, by virtue of  
 13 AS 47.30.852 and 3 and probate rule 1(e) says that if a  
 14 probate rule is not specific to a particular procedural  
 15 issue, then the civil rules apply.  
 16 I think that the civil discovery rules are  
 17 applicable, at least the concept of discovery is  
 18 applicable. They may need to be modified to reflect the  
 19 timing requirements that are unique to these proceedings.  
 20 But nonetheless, there is a due process right to discovery  
 21 of information that is going to be used against you in any  
 22 hearing and particularly in one in which the requested  
 23 remedy, the medication, the involuntary psychotropic  
 24 medication, clearly requires that sort of disclosure of  
 25 information.

1 And the motion to quash the deposition notices  
2 is denied with one caveat. And I think that this has  
3 actually been corrected or there is a reference in the Ron  
4 Adler notice of a 9:00 p.m. time, and then I saw in some  
5 of the filings this morning that that was conceded to be a  
6 typographic error. The State has not requested me to  
7 change the specific timing of any deposition. I will  
8 require the parties to coordinate the, I believe, three  
9 depositions to accommodate, to the extent that is  
10 reasonable, the three deponents.

11 And I don't know what the 9:00 p.m. Adler  
12 deposition actually was intended to be. 9:00 p.m. might  
13 not be reasonable, although the reason I'm hedging is that  
14 I don't know what the shift schedules are of those three  
15 individuals. I assume that the State's attorney normally  
16 doesn't work at 9:00 p.m.

17 Have the two of you been able to rearrange  
18 deposition times? Mr. Gottstein.

19 MR. GOTTSTEIN: Your Honor, I think we have an  
20 understanding that if the Court denies the motion to  
21 quash, that we would hold Mr. Adler's deposition tomorrow,  
22 and it was meant to be 9:00 a.m., not 9:00 p.m., but --

23 THE COURT: That's fine. And that's supposed to  
24 be on the 4th of November?

25 MR. GOTTSTEIN: Correct.

1 THE COURT: And Ms. Derry, are there any -- does  
2 that resolve the scheduling problems of the three  
3 depositions?

4 MS. DERRY: I'll -- it definitely resolves  
5 Mr. Adler's problem as long as -- he's down on the Kenai  
6 Peninsula today, Your Honor, and so I won't be able to  
7 speak to him, but I think that that will work for Ron, for  
8 Mr. Adler, and I think that Mr. Gottstein and I can -- if  
9 there are any other scheduling problems, can meet to  
10 discuss that.

11 THE COURT: All right. Purely for scheduling  
12 purposes, if I'm recalling, we're to begin at -- is it  
13 9:00 a.m. Wednesday morning?

14 MS. DERRY: Yes, Your Honor.

15 THE COURT: And the State has filed a lengthy  
16 witness list. As a practical matter, how long do you  
17 think the State's case-in-chief, setting aside  
18 cross-examination, will last?

19 MS. DERRY: If I feel like I need to call most  
20 of those witnesses, Your Honor, it would definitely take a  
21 day.

22 THE COURT: And that's direct only, without  
23 cross?

24 MS. DERRY: Yes.

25 THE COURT: Mr. Gottstein, I appreciate that

1 this depends on what the State presents, but do you know  
2 now whether you will have a direct testimony  
3 case-in-chief? I appreciate you will have  
4 cross-examination, but do you think you will have your own  
5 affirmative, direct testimony?

6 MR. GOTTSTEIN: Yes, Your Honor. And I did file  
7 a witness list, a preliminary witness list on Friday --

8 THE COURT: Maybe you have.

9 MR. GOTTSTEIN: -- and I assume you've got it  
10 somewhere.

11 THE COURT: It's somewhere.

12 MR. GOTTSTEIN: I've got it somewhere too.  
13 Yeah, you know, I think we might assume a day too. I  
14 filed a lot of testimony, actually, in writing, written  
15 testimony, and using that, I think can shorten things, but  
16 I think still it will be a day.

17 THE COURT: Some of that testimony -- I mean, I  
18 know that there's a packet that just showed up today that  
19 includes affidavits and some articles and a variety of  
20 other things, and some prior testimony in prior cases. So  
21 the State's going to have to sort of go through that and  
22 raise whatever objections it wants. But at this point, if  
23 we do go Wednesday and we need at least an additional day,  
24 it's my understanding that Thursday is the normal day  
25 for -- or Tuesdays and Thursdays are normal days for

1 API hearings?

2 MS. DERRY: No. Your Honor, it's Tuesday  
3 afternoon and Friday afternoon.

4 THE COURT: All right. So would the parties be  
5 ready to go Thursday in the day?

6 MS. DERRY: Yes, Your Honor.

7 MR. GOTTSTEIN: Yes, Your Honor.

8 THE COURT: I'll have to look and see what  
9 exactly -- I don't remember whether I have this trial  
10 that's about to start scheduled for Thursday or whether I  
11 have something else. But obviously this case has time  
12 requirements that will likely trump anything else. We'll  
13 assume at that point that we're going both Wednesday and  
14 Thursday. I will give you information to the contrary as  
15 soon as I receive it, if I do receive it.

16 MS. DERRY: And Your Honor, my -- I would like  
17 to ask that the Court keep the hearing on Wednesday and  
18 Thursday, if we go into that, to the four issues at hand  
19 that Mr. Gottstein has brought up and that are clear in  
20 both the statute and under Myers and Weatherhorn, that  
21 the issues are whether or not the patient refused --  
22 whether or not the patient is capable of informed consent  
23 and whether or not the medicating is within the best  
24 interest and the less restrictive alternative to protect  
25 the patient.

1 And if we could agree that those are the issues  
 2 and not the extraneous issue of whether -- of the  
 3 controversial issue of whether or not medications are  
 4 appropriate or the other things been adjudicated that are  
 5 going to appeal now. If we can stick to the four issues  
 6 that are actually at hand of whether or not we can care  
 7 for Mr. Bigley, then this hearing -- my witness list would  
 8 become markedly shorter, Your Honor.

9 THE COURT: I assume that we will be delineating  
 10 those four issues. Are there other issues?

11 MS. DERRY: It's -- the way that I'm reading the  
 12 multiple --

13 THE COURT: Let me -- let Mr. Gottstein speak,  
 14 because he'll tell us what the issues are beyond those  
 15 four.

16 MS. DERRY: Yes, Your Honor.

17 THE COURT: If any.

18 MR. GOTTSTEIN: Your Honor, as an initial  
 19 matter, I note that the harm of the drugs and the relative  
 20 lack or -- lack of benefit or effectiveness, of course, is  
 21 an extremely important part of the best interests finding.  
 22 Okay. So -- but that's with respect to what I'm calling  
 23 the parens patriae account. With respect to the police  
 24 power account that they've also asserted under 47.30.838,  
 25 there's a lot of issues about that, whether or not they're

1 torture, something from a horror movie from the 1950s, and  
 2 that's the position that we're in right now, Your Honor,  
 3 and we're asking that this can move forward and that we  
 4 can look to just simply sticking to what the statute says,  
 5 rather than bringing up the extraneous constitutional  
 6 issues that are really controversial and up in the air.

7 And Mr. Gottstein --

8 THE COURT: Ms. Derry, the question was, are you  
 9 proceeding under 838 and seeking emergency powers, which  
 10 would seem to be unnecessary if I granted your 839  
 11 petition?

12 MS. DERRY: Oh, no, Your Honor, I'm not  
 13 seeking -- the 838 motion, that's strictly Mr. Gottstein.  
 14 I have -- I have to seek an 839 petition because the  
 15 hospital is having to emergency medicate.

16 THE COURT: Are you asking me to do anything  
 17 under 838 or to somehow ratify whatever emergency  
 18 medication API is administering?

19 MS. DERRY: Your Honor, what's -- no. I'm  
 20 asking whether or not -- I'm asking to move forward on the  
 21 medications petition under 839, which is required by  
 22 838 --

23 THE COURT: That's fine.

24 MS. DERRY: -- because --

25 THE COURT: So now let's assume I either -- I

1 entitled to -- entitled to an order, and there's been no  
 2 reported decision on that statute, and so I think we'll  
 3 have to sort out exactly what the requirements of that --  
 4 that statute are.

5 THE COURT: I'm not sure I understand what  
 6 you're saying.

7 MR. GOTTSTEIN: Excuse me?

8 THE COURT: I'm not sure I understand what you  
 9 are...

10 Okay. Maybe I misunderstood something when I  
 11 was referring to the 838. The 838 is the provision  
 12 regarding emergency psychotropic -- the administration of  
 13 emergency medication. Can I assume that at least going --  
 14 that the State simply wants to proceed on its 839?

15 MS. DERRY: Yes, Your Honor. What's happening  
 16 is that because Mr. Bigley has been committed, the  
 17 hospital is doing everything they can to help him, and  
 18 because of his condition, he is so severely psychotic that  
 19 he requires a tremendous amount of care and another option  
 20 would be to actually strap him down and restrain him on a  
 21 bed, and that is absolutely something that the hospital is  
 22 unwilling to do because Mr. Bigley isn't capable of  
 23 informed consent and he's not capable of rationalizing  
 24 things.

25 The hospital actually sees that as a form of

1 have two options. I deny the 839 petition, in which case  
 2 Mr. Gottstein, are you then seeking some additional  
 3 request under -- that would restrict API's 838 authority?

4 MR. GOTTSTEIN: Your Honor, I think there's some  
 5 confusion. There's certainly some confusion in my mind.  
 6 If you look at the petition, forced drugging petition,  
 7 there's two checked boxes, checked, one under the 838  
 8 ground -- but they're both made under AS 47.30.839. And  
 9 one is if the patient is incapable of giving or  
 10 withholding informed consent, and it seems that's what  
 11 Ms. Derry is speaking about.

12 There's another one that says if the hospital  
 13 seeks authority to administer emergency medications for  
 14 longer than a certain period of time, it has to get court  
 15 approval to do so. And so that's also under -- that  
 16 application is made under 47.30.839, but the standards  
 17 applicable to that are under AS 47.30.838, and that's why  
 18 I called it the 838 count.

19 THE COURT: Let me look at 839 again.

20 839(a) allows API to seek court approval of the  
 21 administration of psychotropic medication in one of two  
 22 circumstances: Either that there will be repeated crisis  
 23 situations that would nominally authorize API on its own  
 24 to issue emergency medication, or if they want to use the  
 25 psychotropic medication in a noncrisis situation and he's

1 incapable of giving informed consent, the State -- correct  
2 me if I'm wrong -- the State clearly is seeking that  
3 second authority, that there is a noncrisis situation and  
4 he's not capable of giving informed consent. That at  
5 least in the first instance that's true, right?

6 MS. DERRY: Yes, Your Honor. But also we're  
7 referring -- what we're required to do under 838(c) is  
8 that because they aren't continually medicating Mr. Bigley  
9 in a noncrisis situation, they're having to wait for him  
10 to go into a crisis, and then if they can't use any other  
11 form of treatment in order to help him get calmed down and  
12 to ensure the safety of the other people, the other  
13 patients at API, they've had to now, since this has gone  
14 longer than 72 hours without making a decision, they are  
15 required under Section C of 838 to seek this court order,  
16 because it says that they can't administer psychotropic  
17 medications during no more than three crisis periods  
18 without the patient's informed consent, only with Court  
19 approval.

20 THE COURT: So let's assume, just for purposes  
21 of walking it through, that I grant the 839 petition  
22 because he's incapable of giving informed consent and I  
23 meet all the other Meyer/Weatherhorn criteria. Doesn't  
24 that moot out the 838 -- the 839(a)(1) petition?

25 MS. DERRY: Yes, Your Honor. It's -- my

1 understanding is that the hospital has done what's  
2 necessary. They were adhering to the statute and  
3 requesting a medications petition within the appropriate  
4 amount of time under 838, which says that they couldn't  
5 medicate without appropriate court order after the three  
6 crisis periods, but they also were required to do anything  
7 it takes in order to protect Mr. Bigley as well as the  
8 other patients at the hospital, and because of that, they  
9 have continued to emergency medicate if that is the last  
10 resort without causing any harm to Mr. Bigley who has done  
11 several things that are definitely disconcerting and have  
12 caused his primary treating psychiatrist to be very, very  
13 concerned about his well-being. And so the hospital  
14 has --

15 THE COURT: Doesn't it make sense for the State  
16 to proceed under 839(a)(2) in the first instance and  
17 present only the information it thinks is necessary there?  
18 If I grant that petition, then any need for 839(a)(1)  
19 authorization is moot?

20 MS. DERRY: Yes. I believe that, Your Honor.

21 THE COURT: And then if, on the other hand, I  
22 deny your 839(a)(2) request, then the State can, if it  
23 wants, present whatever additional information is  
24 necessary to seek 839(a)(1) authority. Is that fair from  
25 the State's perspective?

1 MS. DERRY: It is. It also -- Your Honor,  
2 between the two, of 839 (1) or (2), that's basically what  
3 the hospital is having to do right now, that whether  
4 they're --

5 THE COURT: But I'm talking about your comment  
6 that you want to somehow restrict the evidence.

7 MS. DERRY: Yes, Your Honor. I want to simply  
8 stick to the statute which is saying that we are asking  
9 the Court to grant us the ability to treat Mr. Bigley  
10 within the appropriate standard of care as seen all across  
11 the United States and --

12 THE COURT: That's fine rhetoric, but you don't  
13 get to say -- all I'm trying to figure out is how we focus  
14 your presentation so that we deal with one set of evidence  
15 rather than all sets of evidence, because that's what  
16 you're asking for.

17 MS. DERRY: Yes.

18 THE COURT: So if you proceed under the  
19 839(a)(2) criteria, that's a smaller set of evidence,  
20 according to you, right?

21 MS. DERRY: Yes.

22 THE COURT: Okay. And then if I grant that  
23 petition, it moots out the necessity for the broader set  
24 of testimony?

25 MS. DERRY: Yes, Your Honor.

1 THE COURT: Okay. Now, Mr. Gottstein gets to  
2 make whatever constitutional arguments he wants under  
3 whatever theory the State chooses to pursue first. So do  
4 you see any problem, Mr. Gottstein, if we -- if the State  
5 goes under 839(a)(2) first, under whatever it thinks is a  
6 smaller subset of evidence, you respond to that, I'm going  
7 to make a ruling, if I grant it, doesn't that moot out the  
8 (a)(1) request?

9 MR. GOTTSTEIN: I think that, Your Honor, this  
10 is where the Supreme Court stay really comes into effect,  
11 because the Alaska Supreme Court issued a stay on  
12 essentially the same evidence that I presented to you,  
13 Your Honor, and then you indicated --

14 THE COURT: Forget the stay. Just forget that  
15 there's a stay for purposes of this discussion, and then  
16 we'll go back to what the stay brings. If there was no  
17 stay in place, doesn't the granting of the 839(a)(2)  
18 petition, if that's what I do, moot out the (a)(1)?

19 MR. GOTTSTEIN: Yes, Your Honor. May I --

20 THE COURT: Okay.

21 MR. GOTTSTEIN: May I just say one other thing  
22 about that. And, you know, in a lot of ways what you're  
23 suggesting, you know, I could say that that really  
24 benefits my client because the State is going to run out  
25 of its authorization to use the police power authorization

1 to emergency drug him during -- you know, during that  
 2 pendency because the statute gives them three -- basically  
 3 three 72-hour periods, and if they don't have a court  
 4 order at the end of three 72-hour crisis periods, they can  
 5 no longer do it. So I think that actually their petition  
 6 makes sense in that regard, and I'm perfectly fine to  
 7 limit it to the 839 -- you know, just the 839 -- what is  
 8 it?

9 THE COURT: (A)(2)

10 MR. GOTTSTEIN: (A)(2). You know, if that's the  
 11 ruling and we're going to limit it to that, I'm very --  
 12 I'm very happy with that.

13 THE COURT: Okay. We're both in agreement.  
 14 We're going -- we'll go with -- the State will present  
 15 what it thinks is necessary under 839(a)(2). If I grant  
 16 the petition, then I have to deal with the subsequent  
 17 question of what do I do with the Supreme Court stay in  
 18 effect in May in a different case with a different set of  
 19 facts. Not a different set of facts, but a set of facts  
 20 that ended in May.

21 And one of the things that I am going to want  
 22 the State to tell me is where Mr. Bigley has been or when  
 23 he has been at API, if at all, since May '08. And the  
 24 reason I want that is I want the Supreme Court, if I grant  
 25 any of the State's requests and authorize medication, I'm

1 going to have to deal with the issue of the prior stay.  
 2 And if I rule that the prior stay is, in essence, obsolete  
 3 and overridden by subsequent events, I'm going to give  
 4 Mr. Bigley, Mr. Gottstein an opportunity to go to the  
 5 Supreme Court and petition for a stay of that  
 6 authorization order.

7 And I want the Supreme Court to have in this  
 8 record a history of when he's been -- at a minimum, when  
 9 he's been at API, if at all, since the first authorization  
 10 order and the first stay.

11 MS. DERRY: Yes, Your Honor.

12 THE COURT: Is there anything else?

13 MR. GOTTSTEIN: Your Honor, may I have an idea  
 14 of how much time I might have to prepare for an 838  
 15 hearing if we end up going to that?

16 MS. DERRY: Your Honor, Mr. Gottstein is arguing  
 17 that we're running out of time, and what's happening is  
 18 that we're actually being forced to deviate from the  
 19 statute as well as deviate from protecting Mr. Bigley's  
 20 due process because this case continues to be delayed  
 21 because of Mr. Gottstein --

22 THE COURT: This case is going to be done, if  
 23 not Thursday, then shortly after Thursday, at least from  
 24 the Superior Court's perspective. I'm going to issue an  
 25 order in the first instance on the 839(a)(2) petition, and

1 if I grant that, then everything else is moot. If I don't  
 2 grant it, then I'm going to grant the State an opportunity  
 3 right then to supplement its evidentiary basis for the  
 4 second type of authorization. And then, Mr. Gottstein,  
 5 you can tell me when the time comes why you think you  
 6 might not have been prepared. If you're not, you're not.  
 7 I'll deal with that assertion when it's given to me and  
 8 when I've had a chance to see the evidence that both sides  
 9 present.

10 MR. GOTTSTEIN: Your Honor, I think I'll  
 11 probably just continue preparation.

12 MS. DERRY: I'm sorry. I didn't hear you,  
 13 Mr. Gottstein.

14 THE COURT: He's going to continue preparation.  
 15 That doesn't surprise me, given the several hundred pages  
 16 of documents that have shown up already. But I'm not  
 17 being -- I'm not being -- I expected that. I'm not being  
 18 sarcastic.

19 At any rate, is there anything else out there  
 20 that -- any motion that someone thinks has been filed that  
 21 I haven't now dealt with, other than the motion for  
 22 summary judgment?

23 MS. DERRY: I also had a motion for the  
 24 protective orders to protect the people that Mr. Gottstein  
 25 is going to depose from him issuing anything on his Web

1 site or making them look bad.

2 THE COURT: Is there any -- I'm not -- if you  
 3 filed a response to that, I just haven't had a chance to  
 4 read it.

5 So is there an objection to me issuing an order  
 6 that says that the depositions and the paperwork generated  
 7 in this case cannot be disseminated to the -- to the  
 8 public outside of the courtroom setting?

9 MR. GOTTSTEIN: Yes, Your Honor. I do object to  
 10 that. And I have filed a response to that. And what I --  
 11 what I proposed to Ms. Derry was that -- first off, her  
 12 request is with respect to depositions. And what I said,  
 13 that I'll hold those confidential for a week, and that she  
 14 can then make an application under Civil Rule 26 -- I  
 15 think it's C -- for a protective order. At that point  
 16 we'll know actually what the testimony is and the judge --  
 17 and Your Honor will have a factual basis to make a  
 18 determination whether or not a protective order is  
 19 warranted.

20 THE COURT: Is there any objection to me issuing  
 21 a protective order that says, no deposition, no materials  
 22 can be disseminated to any member of the public except in  
 23 open court at least until November 12th, and then once we  
 24 actually identify what all that information is, we'll  
 25 fine-tune the protective order? State opposed to that?

1 MS. DERRY: No, Your Honor.  
 2 THE COURT: All right. That's the order.  
 3 Anything else?  
 4 MS. DERRY: Not from the State, Your Honor.  
 5 THE COURT: Thank you.  
 6 (End of recording)  
 7 (9:19:26)

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TRANSCRIBER'S CERTIFICATE

1  
 2  
 3 I, Deirdre J.F. Radcliffe, hereby certify that the  
 4 foregoing pages numbered \_\_\_\_ through \_\_\_\_ are a true and  
 5 accurate transcript of proceedings in Case No.  
 6 3AN-08-01252 PR, In the Matter of WB, transcribed by me  
 7 from a copy of the electronic sound recording, to the best  
 8 of my knowledge and ability.

9  
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12 Date Deirdre J.F. Radcliffe, Transcriber

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