

FILED

JAN 05 2015

APPELLATE COURTS
OF THE
STATE OF ALASKA

Law Project for Psychiatric Rights
James B. Gottstein, Esq.
406 G Street, Suite 206
Anchorage, Alaska 99501
(907) 274-7686
Attorney for Appellant

IN THE SUPREME COURT FOR THE STATE OF ALASKA

ITMO the Hospitalization of
H. R.

)
)
) Supreme Court No. S- 15783
)

Trial Court Case No. 3AN 14-02936PR

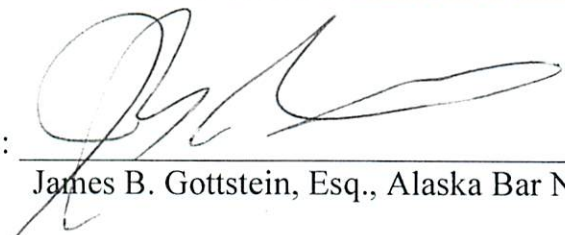
NOTICE OF APPEAL

Appellant, H. R., hereby gives notice of appeal to the Alaska Supreme Court from the December 5, 2014, Order Authorizing Hospitalization for Evaluation, dated December 5, 2014, a copy of which is included herewith.

Dated this 5th day of January, 2015.

LAW PROJECT FOR PSYCHIATRIC RIGHTS

By:


James B. Gottstein, Esq., Alaska Bar No. 7811100

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
AT ANCHORAGE

FILED

JAN 05 2015

APPELLATE COURTS
STATE OF ALASKA

In the Matter of the Necessity
for the Hospitalization of:

H I R
Respondent.
Date of Birth: UNKNOWN

Case No. 3AN-14-02936PR

**ORDER AUTHORIZING
HOSPITALIZATION FOR EVALUATION**

Petitioner, ROBERT SCHMIDT (ATTY AT LAW), filed a *Petition for Order Authorizing Hospitalization for Evaluation* under AS 47.30.700. The court considered the following:

- ☒ Allegations in the petition.
- ☒ Testimony on record at courtroom/media # 203 Beg. log # 1400 hrs
date 12-5-2014 by ☐ the petitioner ☒ other persons _____
- ☐ Medical records from a healthcare facility or mental health professional reporting on the respondent's current mental and physical condition.
- ☐ Screening investigation report previously ordered by the court.
- ☒ Other five witnesses with personal knowledge of the respondent over approximately 8 years.

LOCATION OF RESPONDENT

- ☐ The respondent is currently being detained at _____
The respondent was detained on (date) _____ at (time) _____ ☐ am ☐ pm.
-or-
- ☒ The respondent's current whereabouts are believed to be
5400 W DIMOND BLVD UNIT E18, ANCHORAGE AK

FINDINGS

1. The court finds there is probable cause to believe the respondent is mentally ill based on:
based upon the observations of five witnesses with direct, personal, and close-up
interaction with respondent. Using the broad definition of mental illness (AS 47.30.915)
respondent is mentally impaired to an extent that she cannot control her actions and
statements. Her mental condition has worsened dramatically over an 8 year period and
she needs evaluation and treatment. Respondent is forthwith admitted to API for
evaluation, screening, stabilization, treatment, and appropriate medication.

2. As a result of the mentally ill condition, the court finds the respondent is:

☐ Likely to cause serious harm to himself or herself because

☒ Likely to cause serious harm to others because
respondent cannot control her actions and cannot control her large dog which has
placed fellow condominium dwellers in fear. To the extent that respondent is
paranoid, she acts aggressively toward others.

☐ Gravely disabled because

ORDER

It is ordered that the *Petition for Order Authorizing Hospitalization for Evaluation* is **GRANTED**.
 It is also **ORDERED** that:

1. The Department of Health and Social Services or its designee, or AST/APD
 shall arrange for immediate delivery of the respondent to the following evaluation facility
 for examination and evaluation of the respondent's mental and physical condition:

☒ Alaska Psychiatric Institute	☐ PeaceHealth Ketchikan Medical Center
☐ Bartlett Regional Hospital	☐ Yukon-Kuskokwim Delta Reg. Hospital
☐ Fairbanks Memorial Hospital	☐ Other _____

[AS 47.30.700; AS 47.30.710; AS 47.30.870; and AS 47.30.915(5)]

2. Respondent has a guardian ☐ Yes ☒ No ☐ Unknown
 Respondent is a minor ☐ Yes ☒ No ☐ Unknown

Guardian or parent contact information is as follows:

Name(s) _____ Relationship _____
 Address for service _____
 Phone _____ Fax _____

3. The respondent shall be notified immediately, orally and in writing, of the rights contained
 in the *Notice of Rights* (court form MC-405, available from the court clerk or online at
<http://courts.alaska.gov/forms/mc-405.pdf>). Minor respondent's parent or guardian and
 adult respondent's guardian shall also be notified of the rights in the *Notice of Rights*.
 These notifications and a copy of this order shall be given by:

☐ The person or entity currently detaining the respondent
☐ Local police _____
☐ Alaska State Troopers _____
☐ The petitioner
☒ Other: API UPON ARRIVAL



4. The evaluation facility shall accept this order and the respondent for an evaluation period not to exceed 72 hours. Within 24 hours after arrival at the facility, the respondent shall be examined and evaluated as to mental and physical condition by a mental health professional and by a physician. [AS 47.30.710(a); AS 47.30.715]
5. The evaluation facility shall timely file a *Notice of Respondent's Arrival at Evaluation Facility* (court form MC-400) with the court and Public Defender Agency upon arrival of the respondent at the facility. Court form MC-400 is available from the court clerk or online at <http://courts.alaska.gov/forms/mc-400.pdf>. If the respondent arrives at the facility between the hours of 9:00 a.m. and 3:00 p.m., notice is timely if filed no later than 3:30 p.m. on the same business day. If the respondent arrives at the facility between the hours of 3:00 p.m. and 9:00 a.m., or at any time during the weekend or on a holiday, notice is timely if filed no later than 9:30 a.m. on the first business day following the respondent's arrival. Notice shall be by fax to the numbers designated on the MC-400 form.
6. If the respondent cannot be delivered to the designated evaluation facility within 24 hours of this order, the Department of Health and Social Services through its attorney shall file a **status report** with this court describing:
 - Respondent's current location;
 - Reason(s) for the delay in transporting the respondent;
 - Steps taken by the Department to ensure that continued detention of the respondent at the current location is necessary and no less restrictive alternatives are available;
 - Whether an alternative evaluation facility is now being proposed; and
 - Whether another means of evaluation can be used (such as telemedicine).Filing shall take place within the 24 hour period to the court that issued this order, and an updated status report shall be filed every 24 hours until the respondent is delivered to the designated evaluation facility. A copy of each status report shall be served on the Public Defender Agency, the respondent, the guardian and guardian ad litem of any respondent, and the parent of any minor respondent.
7. The examination and evaluation shall be completed within 72 hours of respondent's arrival at the evaluation facility. [AS 47.30.716] A petition for a 30-day commitment shall be filed or the respondent shall be released from the evaluation facility before the end of the 72-hour evaluation period (unless respondent requests voluntary admission for treatment).
8. If at any time before or during the 72-hour evaluation period, a mental health professional determines that the respondent does not meet the standards for hospitalization in AS 47.30.700, the respondent shall be released, and the parties and court shall be notified of the release using court form MC-412 (if before transport) or form MC-410 (if after arrival at facility). These forms are available from the court clerk or online at <http://www.courts.alaska.gov/forms.htm#mc>.
9. The Public Defender Agency is appointed counsel for the respondent in this proceeding. Counsel is authorized access to medical, psychiatric or psychological records maintained on the respondent at the evaluation facility.
10. This order will be deemed vacated without further court action in seven days if not yet served on the respondent by a peace officer or vacated earlier by the court.
11. _____

Superior Court Judge

This matter was considered directly by the undersigned superior court judge. The *Petition for Order Authorizing Hospitalization for Evaluation* is GRANTED.

Date and Time

Superior Court Judge

Type or Print Name

Superior Court Master

The Master recommends that the *Petition for Order Authorizing Hospitalization for Evaluation* be GRANTED.

12-5-2014 @ 1550 hrs

Date and Time

Superior Court Master
JAMES T. STANLEY

Type or Print Name

Review by Superior Court Judge

The Master's recommendation is APPROVED.

(NOTE: If the Master's recommendation is NOT APPROVED, the Superior Court Judge will complete an MC-340 denial order.)

Date and Time

Superior Court Judge

Type or Print Name

Clerk's Certificates of Distribution

I certify that on 12-5-14
at 4:07 ☐ am ☐ pm, a copy of the following documents:

- ☒ this Order with master's signature
- ☒ Petition for Order Authorizing Hosp. for Eval.
- ☐ Notice of Rights (MC-405)
- ☐ Notice of Emergency Detention (MC-105)
- ☐ Order for Screening Investigation

CIV 2104
were sent to the following persons/entities:

- ☒ Petitioner
- ☐ Respondent
- ☐ Parent/Guardian of Respondent
- ☒ PDA
- ☒ AGO
- ☒ API to fax (907) 269-7262
- ☐ Bartlett Reg. to fax (907) 796-8439
- ☐ Fairbanks Mem. to fax (907) 458-5255
- ☐ PeaceHealth Med. to fax (907) 228-8333
- ☐ Y-K Delta Reg. to fax (907) 543-6099
- ☐ Title47MC@courts.state.ak.us

By Clerk SP

Clerk's Certificates of Distribution

I certify that on _____
at _____ ☐ am ☐ pm, a copy of the following documents:

- ☐ this Order w/ superior court judge's signature
- ☐ Petition for Order Authorizing Hosp. for Eval.
- ☐ Notice of Rights (MC-405)
- ☐ Notice of Emergency Detention (MC-105)
- ☐ Order for Screening Investigation

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By Clerk _____

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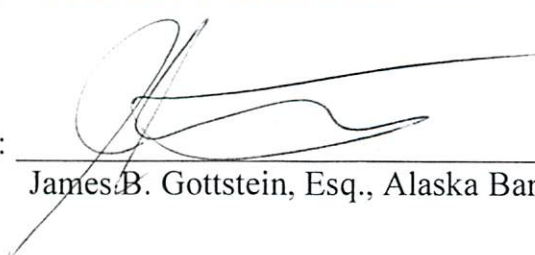
POINTS ON APPEAL

Pursuant to Appellate Rule 204(e) the points on which appellant intends to rely in this appeal are:

1. There was an constitutionally insufficient exigency justifying failure to provide appellant with notice and an opportunity to be heard.
2. The facts did not justify seizure of the appellant for an involuntary psychiatric evaluation.
3. The Probate Master lacked authority to have appellant seized.

Dated this 5th day of January, 2015.

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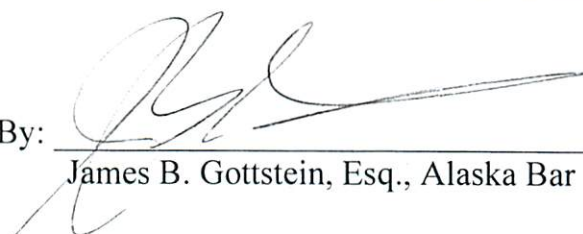
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DESIGNATION OF TRANSCRIPT

Pursuant to Appellate Rule 204(b)(6), Appellant designates the December 5, 2014, hearing in this matter for transcription.

Dated this 5th day of January, 2015.

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By: 

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