

**URGENT**  
**26 August 2013**

***Without Prejudice***

Parliamentary Secretary of Health  
Ms. Georgie Crozier MLC

Dear Madam Secretary Crozier,

Mental Health Review Board – Hearing No.150813:Z22.1:741161  
Garth Daniels (D.O.B.26 August 1975)  
Case Type .29(1) (b)

Pursuant to the aforementioned hearing, I request your urgent intervention in Garth Daniels upcoming appeal scheduled before the Mental Health Review Board to be held at Southern Health, Dandenong Hospital on 29 August 2013.

There are a number of issues which warrant your scrutiny in this case, as I have exhausted all other avenues to seek resolution. However, for the purpose of this communication and the urgency, I draw your attention to the five most critical issues at this stage.

The **first critical issue** is that the classification of Garth Daniels as an involuntary patient is incorrect in that he is consistently being listed by the Mental Health Review Board as a **S.29 (1) (b)** patient under the ***Mental Health Act 1986 (as amended)***. The implication is that Garth Daniels is a security patient, convicted and found guilty by due process of the Courts.

This is totally incorrect as Garth Daniels has NEVER been before the courts and found guilty of any offense. Yet once before he was classified by a psychiatrist as a **S.16 (3) (b)** security patient under the Act and sent to Thomas Embling Forensic Hospital, where he was brutally bashed suffering a fractured jaw as well as having being kept in seclusion for fifty-five days.

Perhaps you would at some later stage scrutinize this aspect as well, which I will address in subsequent communication, as I do not believe that a psychiatrist has jurisdiction to assume the function of the Department of Justice.

The **second critical issue** is that at a previous Appeal hearing requested by the patient Garth Daniels and scheduled at Southern Health on 15 August, 2013; the legal member on the Board, Anne O'Shea adjourned the hearing without due process. The consequence

of her action were unconscionable as it culminated in an unwarranted extension to Garth Daniels incarceration as an involuntary patient, effectively unlawful detention.

There were twelve people who came to support Garth Daniels at this hearing, of which three were there to assist in advocating for both Garth Daniels and myself. The Board and hospital staff seemed unnecessarily flustered by this despite the peaceful demeanor of those present.

The **third critical issue** is that Anne O'Shea commented to those present that the Board may inform itself as it sees fit as per **S24 (3)** of the Act and then sought to remove one of Garth Daniels representatives before the hearing could take place. Garth Daniels was asked if he wanted the party to remain to which he responded 'yes'. This unconscionable action by the legal member further exacerbated the denial of due process and the right to a fair hearing.

The **forth critical issues** are that nowhere in **S26 (3)** regarding the patients right to representation is it subject to **S24 (3)** and secondly, Anne O'Shea therefore had no right to adjourn the hearing. This misapplication of the Boards rules of evidence to cause injury to Garth Daniels right to representation is unequivocally a breach of due process and has resulted in unnecessary and unlawful detention of Garth Daniels in the hospital.

This action is also a breach of the Board's own guidelines, in that it is bound by natural justice and MUST act in equity and good conscience **S24 1 (a),(b)**. The consequence of this breach justifiably MUST exclude the legal member Anne O'Shea, the psychiatrist Dr. Chris Mileskin and the Community Member on the Board who witnessed this miscarriage of justice and render them completely ineligible to re-hear the matter on the 29 August, 2013.

The **fifth critical issue** is a more complicated matter. The treating psychiatrist, Dr. Neeraj Sareen has assessed Garth Daniels as well enough to be discharged BUT, strictly subject to their Community Treatment Order. This decision ignores Garth Daniels right consent and to return to his ongoing private treatment plan once he is discharged from the hospital.

The hospital's records should show that Garth Daniels attended the hospital as a FREEMAN not subject to any order, upon the advice of his private psychiatrist in consultation with me and the outreach nurse. Thereafter, there was a negotiated treatment plan in that in a controlled environment there could be a reduction in polypharmacy to one of the prescribed drugs which was causing debilitating side effects.

Since that initial negotiation and an improved outcome for Garth Daniels the hospital has taken it upon themselves to railroad over this understanding and force a Management Plan upon Garth that is contrary to all other independent assessments of Garth Daniels best interests.

A key example of the hospitals belligerence is ignoring Garth Daniels formal withdrawal of informed consent to his second round of shock therapy, ECT. Another is the hospitals insistence on wanting to change Garth Daniels current medication to an Intra muscular injection in order to enforce “compliance”, despite there being no record of this as a problem and it being contraindicated because Garth has the propensity to treatment emergent NMS, a debilitation and potentially fatal condition.

The treating doctors, hospital and more recently the MHRB have shown absolute contempt for their responsibilities to Garth Daniels as per **S6**, *Principles of treatment and care* and **S.19A** *Treatment plans* and **S.35A**, *Review of treatment plans*, both throughout his treatment and now with regard to his discharge.

Noting the miscarriage of justice that occurred on the 15 August 2013, Garth Daniels has been falsely imprisoned for almost two weeks now, deprived of due process and natural justice in the matter. Garth Daniels has had a torrid history in the public mental health arena ranging from 1996 to this present day.

Therefore, I urgently request your intervention to correct the wrong by facilitating the following which would provide Garth Daniels the outcome he justly deserves: today is also his birthday.

A/ Dismiss the current Mental Health Review Board due to hear Garth Daniels appeal on the 29 August 2013

B/ Discharge Garth Daniels this week so that he can return to his family home and resume his treatment under the guidance of his private psychiatrist and outreach team of psychologist, nurse, general practioner, neurologist and in my care, as his primary carer, guardian and medical power of attorney.

Should you not be able to assist in this matter then regrettably I will have no alternative but to escalate the matter this week into the Supreme Court. Your URGENT attention to these concerns and my request as Garth Daniels Power of Attorney would be very warmly appreciated. I thank you and urgently await your reply in the affirmative.

Due to the urgency of these critical issues I may be contacted directly on 0404 987 507 or via email [psychb@hotmail.com](mailto:psychb@hotmail.com) .

Yours sincerely,  
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