

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

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IN THE MATTER OF            )  
                                  )  
WILLIAM BIGLEY,            )  
                                  )  
\_\_\_\_\_  
Case No.   3AN-08-247 PR

REPRESENTATION HEARING  
BEFORE THE HONORABLE JACK SMITH

Monday, March 10, 2008

APPEARANCES:

FOR THE STATE:   Timothy Twomey  
                          Assistant Attorney General  
                          Human Services Section  
                          1031 West 4th Avenue, Suite 200  
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FOR MR. BIGLEY:   Elizabeth D. Brennan  
                          Assistant Public Defender  
                          900 West 5th Avenue, Suite 200  
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James B. Gottstein  
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PROCEEDINGS

1 THE COURT: We're on record in the time set  
 2 for a representation hearing in 3AN-08-247, I think it's  
 3 PR. The parties ready to proceed? I think we have  
 4 three parties.  
 5 MR. GOTTSTEIN: Your Honor, I'm Jim  
 6 Gottstein. Nice to meet you. I think there is a  
 7 preliminary matter, which is this hearing -- Mr. Bigley  
 8 previously elected to have it open to the public.  
 9 THE COURT: Right.  
 10 MR. GOTTSTEIN: And in the past, there has  
 11 been kind of inconsistent administration of whether or  
 12 not that means the court file is open.  
 13 THE COURT: Well, anything that happens  
 14 here, if it's open to the public, this part would be  
 15 discoverable.  
 16 MR. GOTTSTEIN: I don't think there is any  
 17 -- I think that's true for the court file too.  
 18 THE COURT: Right.  
 19 MR. GOTTSTEIN: So I think the clerk over at  
 20 the probate court really needs to be informed of that.  
 21 THE COURT: Okay. In other words,  
 22 Mr. Bigley has no objection to the public having access  
 23 to the information in the file?  
 24 MR. BIGLEY: No, I don't.

1 THE COURT: Okay. Let me hear from --  
 2 MR. TWOMEY: Yes, Your Honor. Tim Twomey  
 3 from the Attorney General's Office representing Alaska  
 4 Psychiatric Institute.  
 5 It's our understanding that Mr. Bigley has a  
 6 guardian who may be -- may have something to say about  
 7 choice of counsel.  
 8 THE COURT: Right. Is the guardian here  
 9 today?  
 10 MR. TWOMEY: I don't see the guardian here  
 11 today, Your Honor.  
 12 THE COURT: Any idea why the guardian is not  
 13 here?  
 14 UNIDENTIFIED SPEAKER: I don't know. Were  
 15 they given notice?  
 16 THE COURT: Okay. All right. Has the  
 17 public defender got a position on this?  
 18 MS. BRENNAN: Your Honor, actually, I think  
 19 it's important to take up the -- the public defenders  
 20 asked for a representation hearing in this case.  
 21 It was originally set for a hearing in front  
 22 of Master Lack, and then we asked that there be a  
 23 representation hearing, and I think that has to be taken  
 24 up first.  
 25 Our concern is that Mr. Gottstein has filed

1 pleadings. He states that he only wants to represent  
 2 Mr. Bigley on the forced medication petition. We don't  
 3 think that's workable with our office.  
 4 The public defender's office was appointed  
 5 to the commitment hearing. Over the weekend,  
 6 Mr. Gottstein obviously communicated with the client.  
 7 We believe that that was in violation of Professional  
 8 Rule 4.2 in which the attorney is supposed to be able to  
 9 be the gateway for communication.  
 10 And nevertheless, Mr. Gottstein was  
 11 communicating with the client. He also communicated  
 12 with the state about this case. He has submitted  
 13 briefings in this case. He has made disparaging remarks  
 14 about the public defender's office in those briefings.  
 15 I had a conversation with Mr. Bigley on  
 16 Friday when I was over at API that seemed to go fairly  
 17 well, that Mr. Bigley was able to listen to me and be  
 18 able to discuss the case with me.  
 19 Since that time, Mr. Bigley basically won't  
 20 communicate with me. He won't even sit next to me.  
 21 When we were in front of Judge Christian last week, he  
 22 refused to come to counsel table when I was seated next  
 23 to Kelly Gibson, who is another lawyer in our office who  
 24 does these types of hearings, and insisted that he be in  
 25 the jury box.

1 I think that this situation makes it  
 2 impossible for there to be any type of co-counsel  
 3 between our office and Mr. Gottstein. Mr. Gottstein  
 4 wants to call all the shots in the case. He files these  
 5 things without consulting us.  
 6 He filed a preempt in the case without  
 7 consulting us. There is not a communication in which we  
 8 can work together and make decisions together.  
 9 And, basically, he is in a situation where  
 10 he is talking to Mr. Bigley. Mr. Bigley wants to do  
 11 everything that he wants to do. And we can't have --  
 12 it's just not a situation where we can have co-counsel.  
 13 If Mr. Gottstein wants to be in this case,  
 14 he needs to take the commitment part of the case as well  
 15 as the medication issue.  
 16 THE COURT: All right. I assume -- well,  
 17 does the state have a position?  
 18 MR. TWOMEY: We need to know who we should  
 19 be communicating with, Your Honor. We did receive some  
 20 communications from Mr. Gottstein, including an e-mail  
 21 this morning that appears to go beyond the scope of the  
 22 petition for administration of medications, so it's  
 23 unclear to us exactly the scope of Mr. Gottstein's  
 24 asserted representation of Mr. Bigley, and we just need  
 25 to know who Mr. Bigley's attorney is for purposes of

1 communication.

2 THE COURT: All right.

3 MS. BRENNAN: That motion, Your Honor, had  
4 to do with less restrictive alternatives, which again is  
5 an issue -- I mean, I think that you can say that it  
6 goes to the crux of both the medication part and the  
7 commitment part, but it does go to the crux of the  
8 commitment part.

9 And, again, he is filing these motions, and,  
10 I mean, he does have the courtesy to give us a copy of  
11 it, but he is filing these things. Again, in terms of  
12 having two counsels on the case, it's not workable.

13 THE COURT: All right. Mr. Gottstein, my  
14 review of the file indicates that you have represented  
15 Mr. Bigley in the past. When was the last time you  
16 represented him?

17 MR. GOTTSTEIN: In September, Your Honor.

18 THE COURT: All right.

19 MR. GOTTSTEIN: Your Honor, I think the  
20 public defender agency is making this much harder than  
21 it really needs to be. Under Myers and Weatherhorn  
22 (phonetic), the Alaska Supreme Court was very clear that  
23 it's a two-step process, and that the forced drugging  
24 petition occurs only if and after a commitment is  
25 ordered.

1 Now --

2 THE COURT: Hang on. The court is not even  
3 there yet. I have to figure out who is supposed to  
4 represent Mr. Bigley.

5 MR. GOTTSTEIN: I know. Yes, and I'm  
6 explaining that. I filed some pleadings that kind of  
7 went to that that said I think that the forced drugging  
8 petition is premature because it really shouldn't be  
9 filed until after the commitment.

10 I am with the Law Project for Psychiatric  
11 Rights, whose mission is to fight unwarranted  
12 court-ordered psychiatric drugging. And so --

13 THE COURT: Hang on. Hang on. But the  
14 court has to figure out who is supposed to represent  
15 Mr. Bigley, so I don't need any of that yet.

16 MR. GOTTSTEIN: Well, this is --

17 THE COURT: Mr. Gottstein --

18 MR. GOTTSTEIN: This is by way of preface,  
19 which there is no reason why the public defender agency  
20 shouldn't, can't represent him during the commitment  
21 phase and then I represent him --

22 THE COURT: They just said that they can't  
23 work with you.

24 MR. GOTTSTEIN: Huh?

25 THE COURT: They just said that you are not

1 willing to work with them or they are not willing to  
2 work with you.

3 MR. GOTTSTEIN: Well, I'm not even involved  
4 in that until -- unless they lose that.

5 THE COURT: Well, I'm trying to figure out  
6 if you're supposed to be involved in this case at all  
7 yet, so please have a seat.

8 MR. GOTTSTEIN: Your Honor, if I may --

9 THE COURT: No. We'll do this my way. It's  
10 my hearing. Sit down. I'll give you a chance to talk.  
11 We're all going to talk. We're all going to get an  
12 opportunity.

13 I need to figure out why the guardian is not  
14 here. If Mr. Bigley supposedly is unable to make a  
15 decision on his own, I need to get input from the  
16 guardian to determine whether that individual agrees  
17 that -- or agrees either that Mr. Bigley is capable of  
18 deciding who his attorney is going to be or is agreeable  
19 that Mr. Gottstein should be the attorney.

20 I mean, so does anybody have a sense -- when  
21 was the last time the guardian talked to Mr. Bigley?  
22 Anybody know?

23 MR. TWOMEY: Your Honor, the guardian was  
24 here in court --

25 THE COURT: Friday?

1 MR. TWOMEY: Not Friday, but Thursday, I  
2 believe, of last week.

3 THE COURT: Do we have a phone number they  
4 could get a hold of this person?

5 MS. BRENNAN: I would call 269-3500 and ask  
6 for a Beth Russo.

7 MR. BIGLEY: Jonathan Hughes is mine.

8 THE COURT: Jonathan Hughes?

9 MR. BIGLEY: That's his name.

10 THE COURT: Thank you, Mr. Bigley. Well,  
11 let's get that worked out first, and then,  
12 Mr. Gottstein, I will give you a chance to talk about  
13 the issues that you see.

14 Could we get that phone number again?

15 MS. BRENNAN: 269-3500. That's the main  
16 number.

17 UNIDENTIFIED SPEAKER: For Mr. Hughes?

18 MS. BRENNAN: For both of them, yeah.

19 THE COURT: Both Hughes and?

20 MS. BRENNAN: Jonathan Hughes is the  
21 guardian and Beth Russo is the guardian's attorney.

22 THE COURT: Okay. Got it.

23 MR. BIGLEY: They stole my money.

24 (Indiscernible).

25 THE COURT: Mr. Hughes, can you hear me?

1 MR. HUGHES: Yes.  
 2 THE COURT: Hi. This is Judge Smith. We're  
 3 here in Anchorage Superior Court in 3AN-08-247 PR. It's  
 4 Mr. Bigley's case.  
 5 MR. HUGHES: Okay.  
 6 THE COURT: My understanding is that you're  
 7 involved in that case.  
 8 MR. HUGHES: Yes. I'm the public guardian  
 9 appointed to Mr. Bigley.  
 10 THE COURT: All right. Well, I don't know  
 11 if you received notice of this hearing today, and I  
 12 apologize if you didn't, but the issue before the court  
 13 is representation for Mr. Bigley.  
 14 And I have got the public defender who has  
 15 been appointed to represent him, but I also have  
 16 Mr. Gottstein, who wants to advise him, represent him,  
 17 as regards to any forced drugging that may be  
 18 contemplated with the API commitment.  
 19 MR. HUGHES: Right.  
 20 THE COURT: Have you had an opportunity to  
 21 talk to Mr. Bigley about this at all?  
 22 MR. HUGHES: No, not directly.  
 23 THE COURT: How long have you acted as his  
 24 guardian?  
 25 MR. HUGHES: We were appointed -- our office

1 was appointed in -- well, I mean, in 1999, so we have  
 2 been in his case a long time.  
 3 I have had limited conversations with him by  
 4 phone during his last placement when he was -- before  
 5 his most recent hospitalization.  
 6 And I know that he has a relationship with  
 7 Mr. Gottstein. I know that he calls him frequently, but  
 8 I'm not able to get from him directly what his  
 9 preferences are.  
 10 Is that what the question is about?  
 11 THE COURT: Yes. Actually, that was the  
 12 question. All right. So you have never talked to him  
 13 about representation or attorneys representing him?  
 14 MR. HUGHES: No. The last time I attempted  
 15 to, he did not want to speak with me. It was during --  
 16 well, during this case, but before it came to you.  
 17 THE COURT: All right. I don't know if you  
 18 want to stay on the phone to just hear what goes on.  
 19 MR. HUGHES: I would, if that's okay.  
 20 THE COURT: That's fine. That's fine. All  
 21 right.  
 22 Mr. Gottstein, the indication is that  
 23 previously you actually were representing him in prior  
 24 hearings similar to this back in like September of last  
 25 year.

1 MR. GOTTSTEIN: I have represented him in  
 2 07-247 with respect to his 90-day involuntary commitment  
 3 jury trial.  
 4 THE COURT: I think you may have represented  
 5 him in an '06-case.  
 6 MR. GOTTSTEIN: No. Well, that was a  
 7 guardianship case, Your Honor.  
 8 THE COURT: So it was different.  
 9 MR. GOTTSTEIN: No, that's right. And also  
 10 a commitment and forced drugging case.  
 11 THE COURT: Did you just represent him --  
 12 did you represent him on all issues or just the forced  
 13 drugging issue, in those prior?  
 14 MR. BIGLEY: It was illegal drugs.  
 15 MR. GOTTSTEIN: Well, and then most recently  
 16 in September, 07-1064, just with respect to the forced  
 17 drugging.  
 18 THE COURT: All right. And so you were  
 19 representing him on the forced drugging. Was the public  
 20 defender's office representing him on the commitment?  
 21 MR. GOTTSTEIN: Yes, Your Honor.  
 22 MS. BRENNAN: But before that, there was a  
 23 case in which he represented Mr. Bigley on both issues.  
 24 THE COURT: Right, but I'm trying to figure  
 25 out what's happened between September and now. I mean,

1 if it worked in September, what's the issue now?  
 2 MS. BRENNAN: I think what happened was  
 3 originally Mr. Gottstein wanted to represent Mr. Bigley,  
 4 and he did represent Mr. Bigley, and he realized how  
 5 much work it takes to represent someone.  
 6 Then he wanted to continue on with the  
 7 forced medication because that's the issue that's near  
 8 and dear to his heart, and that he was going to have the  
 9 public defenders basically hold onto the commitment.  
 10 We had one hearing in which the public  
 11 defender's office did the initial commitment hearing,  
 12 and after Mr. Bigley was committed, then Mr. Gottstein  
 13 took over the case.  
 14 We didn't keep dividing up the case.  
 15 Basically, the court said that, okay, if you are going  
 16 to do the forced drugging, then you are going to have  
 17 him for the rest of the case.  
 18 Then the case after that, I believe that we  
 19 represented him, and I'm not -- I think the public  
 20 defender's office represented him on both issues, even  
 21 though Mr. Gottstein stays very involved with  
 22 Mr. Bigley.  
 23 But it's gotten to the point now where we  
 24 don't believe that we can represent Mr. Bigley with  
 25 Mr. Gottstein being involved. He is communicating with

1 our client without our permission, and then once he gets  
2 in, he decides that all the issues regarding the  
3 medication -- that he can file motions that affect the  
4 commitment part of the hearing without any type of  
5 consultation with us.

6 And also his communication with Mr. Bigley  
7 makes it really difficult for us to communicate with  
8 Mr. Bigley. As I stated, when Mr. Bigley first came  
9 into the hospital and I saw him there at the hospital,  
10 he had just gotten there, and, you know, basically, he  
11 was happy to see me and wanted someone to talk to, but  
12 the more he talks to Mr. Gottstein, he begins to say  
13 that it's all the public defender's fault that he is in  
14 the hospital, that we have done nothing for him, that  
15 basically we're part of the problem and that it's  
16 because of us that he has been locked up all of these  
17 years.

18 And then so he won't communicate with us,  
19 and so basically Mr. Gottstein can control what Bill  
20 wants in a case and then he can demand it from us in a  
21 very unconstructive fashion.

22 THE COURT: All right. Mr. Gottstein, do  
23 you have a response to that? Certainly, the court would  
24 find it difficult from the public defender's standpoint  
25 if what she describes is accurate in that your client,

1 if Mr. Bigley is your client, is unwilling to talk to  
2 them because he would prefer to talk to you.

3 How are they going to deal with the  
4 commitment if you're the only one he wants to talk to,  
5 and if you're filing motions that may impact the  
6 commitment process.

7 Go ahead and respond.

8 MR. GOTTSTEIN: Your Honor, first, I don't  
9 agree with her. She has speculated as to my reasons for  
10 choosing --

11 THE COURT: I'm beyond that. I mean, people  
12 can say their thoughts on that. I'm more concerned  
13 about the practicality of representing him if he won't  
14 talk to them.

15 MR. GOTTSTEIN: Well, I think, Your Honor,  
16 that the question in a commitment hearing is whether  
17 Mr. Bigley is mentally ill and as a result of the mental  
18 illness whether he is a danger to himself or others or  
19 gravely disabled, whether there are any less restrictive  
20 alternatives.

21 I think those are primarily the ones. And  
22 my experience is they normally don't call Mr. Bigley or  
23 any other witnesses for that matter, so I agree that  
24 part is maybe less than ideal, but I have got -- you  
25 know, I think I'm entitled to choose which cases I

1 decide to represent him in and what parts.

2 And under Civil Rule 81(d), I think, I'm  
3 entitled to file a limited entry of appearance. To  
4 address the issue of Mr. Bigley is both of our clients,  
5 and so there is absolutely no improper communication.

6 So, you know, that's basically -- I think  
7 that it is workable. I think that the public defender  
8 agency's resistance to this has really created a  
9 problem.

10 And that, again, if you look at Myers and  
11 Weatherhorn, they are both very clear that there is an  
12 involuntary commitment phase, and after that, there is a  
13 forced drugging phase.

14 And that if we keep that mechanism, then  
15 there is really not a problem. They represent him  
16 during the involuntary commitment, and then if it gets  
17 to a forced drugging phase, then I represent him.

18 MR. BIGLEY: Visit API.

19 THE COURT: Well, the court -- go ahead.  
20 I'm sorry. I saw you want to make a comment here. I  
21 was about to make a decision. Go ahead.

22 MR. TWOMEY: Well, Your Honor, the problem  
23 with that is that Mr. Gottstein has already stepped  
24 across the line in terms of his so-called limited  
25 representation.

1 He just this morning sent an e-mail that  
2 went to the merits of the commitment proceeding, not the  
3 medication proceeding, so it's unclear that his role is  
4 limited, as he has described for the court.

5 MR. GOTTSTEIN: Your Honor, the pleading  
6 went -- and as I put in the pleading, I think that the  
7 forced drugging petition is premature and, if not, then  
8 that pleading was premature.

9 But, you know, everybody seems to want to  
10 violate what the Supreme Court said in Myers and  
11 Weatherhorn and rush to judgment on the forced drugging  
12 when the Supreme Court was very clear that that needed  
13 to be a deliberative process where Mr. Bigley's liberty,  
14 interest and rights not to be forcibly drugged are  
15 carefully considered by the court.

16 And so if the court -- I'm kind of in a  
17 conundrum here. I filed that prophylactically, and it's  
18 not on the involuntary commitment. Myers says that he  
19 is entitled to -- that the state can only forcibly drug  
20 him if there is no less intrusive alternative.

21 I put in pleadings that said there is a less  
22 intrusive alternative. That was in the submission last  
23 week. And what I did this morning was move that this  
24 court order that less intrusive alternative.

25 And, again, I only believe that that comes

1 up if he is committed.

2 THE COURT: Actually, you also moved for a  
3 mediation or settlement.

4 MR. GOTTSTEIN: For a settlement conference.  
5 Your Honor, I really think that would be good.

6 THE COURT: Well, okay. We aren't to that  
7 point yet.

8 MR. TWOMEY: Your Honor, I wasn't referring  
9 to the motions that have apparently been filed, because  
10 I haven't seen those yet, but I was referring to an  
11 e-mail, and I would be happy to show it to Your Honor,  
12 that talks about the commitment proceedings.

13 THE COURT: Okay. Well, I don't think I  
14 need to see it. All right. The court is going to rule  
15 as follows:

16 Based on representations of Mr. Gottstein,  
17 he wants to represent Mr. Bigley at the point where  
18 forced drugging would occur. I agree with his  
19 interpretation of the current case law, which says it's  
20 a two-step process.

21 I think for the first step, the commitment,  
22 a public defender is appointed. I think Mr. Gottstein  
23 needs to step out of the case until there is a decision  
24 to commit. At that point, when we get to the second  
25 step, which is forced drugging, if Mr. Gottstein still

1 wishes at that point to make an entry of appearance on  
2 that issue, I think the public defender can step away  
3 and Mr. Gottstein is going to be responsible for  
4 everything from that point on.

5 But until then, if the public defender is  
6 responsible for Mr. Bigley's commitment proceeding, they  
7 need to be unhampered in their ability to contact and  
8 deal with Mr. Bigley.

9 If Mr. Gottstein insists on staying in the  
10 case, you got the whole case. It's your call. What I'm  
11 saying is he has a right to have you for the forced  
12 drugging, but if you're expecting the public defender to  
13 do their job, you need to get out of the way until there  
14 is a decision he needs to be committed.

15 If they never get to that point, then you  
16 wouldn't have to step in. What I'm saying is they can't  
17 force drug him until there is a separate proceeding  
18 after the decision to commit. They have got to decide  
19 to commit. They have to have a second hearing to decide  
20 whether forced drugging is going to occur.

21 Counsel?

22 MR. GOTTSTEIN: Yes, Your Honor. I will  
23 step out until -- unless and until there is a commitment  
24 hearing. I think my -- I mean, is the forced drugging  
25 petition then withdrawn?

1 THE COURT: Everything you filed up until  
2 now is going to be considered withdrawn. Now, if you  
3 want to call them lodged -- I mean, I'm not going to  
4 throw them away. They are here. If you want to at some  
5 point come in and say, Judge, I'm resubmitting what was  
6 previously given or I want to add to it, you can do  
7 that, but I'm not even going to consider them until we  
8 get to -- the decision is made Mr. Bigley needs to be  
9 committed.

10 MR. GOTTSTEIN: If Your Honor would consider  
11 them lodged, I think that --

12 THE COURT: All right. They will be  
13 considered lodged.

14 MR. BIGLEY: (Indiscernible).

15 THE COURT: All right. Does the public  
16 defender understand the ruling?

17 MS. BRENNAN: I understand the ruling, Your  
18 Honor.

19 THE COURT: You may not be happy with it,  
20 but you understand it.

21 MS. BRENNAN: Yeah. I understand that -- I  
22 mean, as I stated, our biggest problem is being able to  
23 represent our client without interference.

24 THE COURT: Well, that's what I'm hoping is  
25 going to happen. Certainly, I would hope Mr. Gottstein

1 is going to talk to Mr. Bigley and explain what's going  
2 on now, so he knows that at least for this first part he  
3 has got to cooperate with the public defender to get the  
4 best possibility.

5 I mean, obviously, the best solution is  
6 maybe he doesn't need to be committed. I don't know,  
7 but if they come to that outcome, we never get to the  
8 concern about the forced drugging, so certainly it would  
9 be in his best interest to the maximum extent possible  
10 he cooperates with the public defender.

11 All right. I have got the guardian on the  
12 phone. Mr. Hughes, do you have any questions for the  
13 court?

14 MR. HUGHES: No, Your Honor. I'll reiterate  
15 that with Mr. Bigley in my communications.

16 THE COURT: I would encourage you, yeah, to  
17 talk to him and be present. Now, the question is  
18 commitment hearing.

19 Do we want to schedule something?

20 MS. BRENNAN: We do, Your Honor.

21 THE COURT: All right. There has been a  
22 previous preemption of the master, but that was filed, I  
23 believe, by Mr. Gottstein?

24 MR. GOTTSTEIN: That's incorrect, Your  
25 Honor. Master Duggan recused him. There was a

1 preemption of Judge Michalski.  
 2 THE COURT: That's correct. And then Judge  
 3 Rindner recused himself actually, or took himself off.  
 4 MS. BRENNAN: And that just shows you how  
 5 difficult the representation is, Your Honor, is that  
 6 Mr. Gottstein filed a preemption without consult and  
 7 then he has spoken to the client about it, and so I mean  
 8 that decision has basically been made.  
 9 If we try to change it, I think that would  
 10 really impair our condition with Mr. Bigley.  
 11 THE COURT: That's fine. I just want to  
 12 make sure that we're in front of the right judge. If  
 13 you guys wanted, I would go back to Judge Christian and  
 14 say -- but that would get really complicated, but we  
 15 could do that.  
 16 MS. BRENNAN: We're fine in front of Your  
 17 Honor. I was just demonstrating how difficult this case  
 18 has been for us.  
 19 THE COURT: All right. When do you think  
 20 you are going to be ready for the commitment  
 21 proceedings?  
 22 API, what's your input, if any?  
 23 MR. TWOMEY: We're pretty much ready, Your  
 24 Honor.  
 25 MS. BRENNAN: My only problem, Your Honor,

1 Yes, Your Honor, 11:00 on Friday.  
 2 THE COURT: I'm going to schedule it for an  
 3 hour. If we don't need that much time, fine, but  
 4 otherwise, if I don't schedule it, things tend to fill  
 5 in pretty quickly.  
 6 So 11:00 to 12:00 will be the commitment  
 7 proceeding.  
 8 MR. BIGLEY: Visit API. They got  
 9 slaughtered, not just me -- (indiscernible) -- illegal  
 10 drugs.  
 11 THE COURT: Any other issues to take up at  
 12 this point in time?  
 13 MS. BRENNAN: I don't think so, Your Honor.  
 14 Thank you.  
 15 THE COURT: I appreciate it. Thank you.  
 16 We'll be off record.  
 17 (Off record.)  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25

1 is --  
 2 THE COURT: Your health care providers are  
 3 ready and obviously that's going to be critical. Okay.  
 4 MS. BRENNAN: I'm not working on the 12th  
 5 and the 13th, and then I have to be at API in the  
 6 afternoon, tomorrow afternoon and also Friday afternoon.  
 7 Friday morning would work the best for me.  
 8 THE COURT: Friday morning would work the  
 9 best for you?  
 10 MS. BRENNAN: Uh-huh.  
 11 THE COURT: And how long are we talking  
 12 about, a sense of how long for the testimony, cross  
 13 examination? I mean, just give me a ballpark.  
 14 MR. TWOMEY: A half hour at most.  
 15 MS. BRENNAN: I would say a half hour, an  
 16 hour at this point in time.  
 17 THE COURT: All right. Because I'm assuming  
 18 -- I'm hopeful that this trial won't be into Friday. It  
 19 might be, and so what I'm going to have to do is kind of  
 20 carve out time in case it's still going.  
 21 Why don't I put it on at 11:00? Is that  
 22 going to work with your calendars? Let me ask  
 23 Mr. Hughes. Can you be here at 11:00?  
 24 Is Mr. Hughes not there anymore? All right.  
 25 MR. HUGHES: I'm sorry. I had it on mute.

1 TRANSCRIBER'S CERTIFICATE  
 2  
 3 I, SONJA L. REEVES, hereby certify that the foregoing  
 4 pages numbered 1 through 25 are a true, accurate and  
 5 complete transcript of proceedings in Case No.  
 6 3AN-08-247 transcribed by me from a copy of the  
 7 electronic sound recording to the best of my knowledge  
 8 and ability.  
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 11 \_\_\_\_\_  
 12 DATE SONJA L. REEVES, TRANSCRIBER  
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