

In the Superior Court at Anchorage, Alaska

Media No.: 3AN6108-194

Judge: W. Morse [telephonic @ API]

Date: Wednesday, November 05, 2008

Clerk: T. Smallwood

Case Title: IN THE MATTER OF:

Name of Minor(s):

Case Number:

W.B.

3AN-08-01252PR

Type of Proceedings: Hearing to address medication / Status of hospitalization

Parties Present:

State of Alaska: Laura Derry

Petitioner: Lisa David

Attorney for Mr. Bigley: Erin Pohland

Respondent: Mr. Bigley [present, in part]

Others Present: Mr. James Gottstein

Court Orders/Master Recommends:

Summary of Proceedings:

9:26:56 AM

Exhibits A and B admitted / Exhibit D offered [not admitted]
Court continues hearing 11-6-08 @ 8:30 a.m.

On record

Court

-who is present : roll call [directs parties to identify selves]

Parties:

[identify selves for the record]

-Jim Gottstein

-Psychiatrist identifies self

-Attorney General / Petitioner

-Court Visitor

-Public Defender [?]

Court

-Mr. Bigley is not present

-inquires of parties of Mr. Bigley's status

-Mr. Bigley now present [addressed by Court]

-court proceedings: summarizes

-case previously before Master Duggan

-case history

-addresses public defender's role / status: remain appointed

9:33:44 AM

-Bar Rules v. Civil Rules addressed / discussed with parties [RE: attorney role / Gottstein's role]

Clerk asks parties to keep voice up when speaking...

CONFIDENTIAL

← Not Confidential.
Jim Gottstein

9:36:00 AM Attorney [not identified]
-filed a limited appearance, my understanding – I am permitted to do this
-separate petition addressed

9:36:52 AM -other subsequential issue / 90 day petition
-It is my view that there are two petitions... cited AS [on record] and the Rule provides for a 90 day
petition / whether permitted to withdraw as attorney addressed

9:38:09 AM Other party [not identified]
-my question here / issues here to be addressed / Mr. Bigley's representation

9:38:45 AM Court
-Appreciates comments addressed

Other Party [not identified]
-Mr. Gottstein's presence / role addressed
-scope of representation

9:40:12 AM Attorney General
-comments, in brief

9:40:23 AM Court
-remarks, citation read aloud, in part, regarding attorney representation / petition – basis of

9:41:23 AM Other Party [not identified]
-addresses Mr. Gottstein's role / presence
-limited representation addressed / parties need to agree to this... explains position

9:42:36 AM Court
-remarks

9:43:52 AM Party [unidentified]
-responds to Court's comments

9:44:31 AM Party [unidentified]
-summarizes public defender's position

Court
-don't believe that is the correct reading of time period / subject matter – structure
-will allow Gottstein to represent

9:45:22 AM -summarizes his role w/ regards to petition

Party [unidentified]
-if inquiry of Mr. Bigley will be done

Court
-no

Party [unidentified]
-repeats question of Court / to confirm Mr. Bigley's understanding

Court
-will not make that inquiry today

Party [unidentified]
-remarks [inaudible]

9:46:53 AM

Attorney General / Public Defender [Unidentified] – [?]
-remarks
-request that hearing be sealed and confidential and not be published [RE: motion for protective order] – explains position / basis for request

Gottstien
-objects to motion

9:48:04 AM

Court
-responds... the Rules governing media coverage / disclosure

Attorney General / Public Defender [unidentified] – [?]
-responds to Court's comments regarding protective order

Court
-responds

9:49:11 AM

Gottstein
-my understanding of this proceeding / if open hearing

Court
-responds to Gottstein's comments

Gottstein
-comments [inaudible]

9:49:54 AM

Party [unidentified]
-ask for Mr. Gottstein to refer to medication – how to be addressed
-testimony to be addressed

9:50:33 AM

Court
-how documents to be presented in proceedings
-terms : forced, voluntary, ... if and when appropriate

9:51:32 AM

Gottstein / public defender [unidentified] – [?]
-I filed w/ the Court: RE - written testimony / purposes of

Court
-how will this / that be cross examined?

Gottstein / public defender [unidentified] – [?]
-responds

Court
-how testimony / evidence to be addressed

Unidentified party
-addresses Court

9:53:56 AM Court
-Mr. Bigley's presence during proceedings [to be quiet[er]...
Public Defender [Gottstein - ?]
-object for the record regarding open proceedings

Court
-comments
-would like / need to read the Court visitor's report
-can take a five minute break...

9:55:07 AM **PAUSE**

9:55:44 AM **Off record subject to call [phone remains active on overhead]**

10:00:49 AM **On record**

Clerk
-asks parties to identify self before addressing the court for lognotes to be accurate

Gottstein
-am very concerned w/ the recording / request a copy of the recording and lognotes

Court
-directs clerk to make three copies of the CD for all parties

Party [unidentified]
-requests Mr. Gottstien... parameters of confidentiality / request enforcement and admonishment

Clerk
-request party to speak up and identify self

Party
-Erin Pohland

10:03:55 AM Court
-protective order addressed: preclude any party from publishing CD / lognotes / content of hearing

Pohland
-remarks

Court
-requesting any discovery pertaining to this matter to be inclusive of protective order?

Pohland
-correct
-additional comments

Gottstein [unidentified - ?]

-comments regarding guardian – presence / role

Court

-protective order / position of parties regarding imposition of

Gottstein / public defender [?] - unidentified

-my understanding of confidentiality and contents of discovery ... if appropriate

Pohland

-remarks

Court

-direct your comments to me... admonishes [?] party ... [RE: speaking in proceeding]

10:07:50 AM -remarks regarding protective order

Gottstein [identity not confirmed]

-objection for the record [RE: protective order]

Court

-comments

-anyone who wants content of proceedings to be published is directed to file motion in writing

Gottstein [identity not confirmed]

-problems w/ that ruling... explained further

10:09:48 AM Court

-what is to be required in motion / affidavit... addresses purpose of deadline / time provisions of protective order...

Gottstein [identity not confirmed]

-responds

10:10:43 AM Court

-remarks... [RE: ruling]

10:11:14 AM Gottstein

-Civil Rule 6... issue of summary judgment addressed

Court

-denied now

-remarks [inaudible]

10:11:47 AM Gottstein

-the Rules / affidavit and summary judgment / admissible evidence addressed

-these drugs have destroyed many people's lives and not effective / have caused brain damage; based on review on record... this effect on [cause of] dementia

-evidence of availability / different approaches on people in different / same situations ... not successful... in that we have to ask to hear testimony on this issue, also... explains

-key issues, in my perspective, how to address his condition: lock him up, administer medications that are considered to be very harmful drugs, and his best interests... some ambiguity as to what the Court views as [inaudible...].

10:15:40 AM -but...the State is not allowed to provide social services...basis / Constitutional level ... there is no evidence to support ...what I think he is entitle to...

10:16:44 AM Pohland
-Statutes...two elements to be proven
Pohland
-make sure that medication is appropriate alternative

10:17:45 AM -what we have here today: summarized...witnesses / evidence to be presented

10:18:25 AM Court
-inquires of Ms. Pohland / RE: affidavit in file

10:18:34 AM Pohland [?]
-if he is refusing medications...addresses Court's inquiry
-what is at greater issue: whether or not the medications are dangerous as addressed
-Mr. Bigley's best interests ... addressed / what we see today v. long term; factual disputes, his history when not on medications
-theoretical v. ethical issues addressed

10:20:31 AM Gottstein
-affidavit addressed

10:20:55 AM -what the State is stating...
-Dr. Jackson is / if well qualified / cross examination...
-the State's remarks / position here...to ignore the facts that ...

Court
-inquires of Mr. Gottstein [inaudible]

Gottstein

10:22:12 AM -responds...Mr. Bigley is at a great disadvantage because the State / Petitioner holds all of the cards ... explains further
-history of filing ... affidavits...[when] testimony of Dr. Jackson in May / State has never come up w/ any evidence...versus what I have filed...

10:23:43 AM -Petition was filed in Oct. 27...what the State is obligated to do / have at the filing of that petition...addressed.

10:24:32 AM Court
-remarks...entire file here / State held to statutory criteria...
-anything further?

10:25:08 AM Gottstein
-yes...the last hearing addressed...

10:25:55 AM Court
-comments

10:26:42 AM Unidentified Party [public defender?]
-addresses Court

10:27:12 AM Court
-comments

10:28:02 AM Pohland [?]
-Statutes addressed / what is mandated
-Mr. Bigley's due process rights addressed

10:29:24 AM -what was discussed at the [last] hearing

Gottstein / Public Defender [?] – not identified
-addresses comments / Court

10:30:59 AM Pohland [?]
-remarks

Gottstein / Public Defender [?]
-no objection to calling witness out of order

Court
-comments

Pohland [?]
-question to ask of guardian / if party to be present in courtroom

Court
-comments / inquiry

Gottstein / Public Defender [?]
-Court visitor [RE: inquiry of]

Court
-is subject to being called to testify

Pohland
-she is not my witness

Court
-she is subject to cross examination
-schedule / time for examination...

Pohland
-will be done by 1:30 today

10:33:33 AM Court
-finish w/ State's witnesses and will call Court visitor first thing, tomorrow
-schedule of witnesses / hearing for tomorrow... discusses w/ parties
-confirms if parties willing to take brief recess before proceeding w/ testimony...

Unidentified Party
-never pass that opportunity up when offered...

Court
-will be off record for roughly five minutes ...will keep the phone line on...

10:34:59 AM **Off record subject to call**

10:40:59 AM

On record

Clerk

-reminds parties to keep voice up for the record

10:41:32 AM

Court

-addresses witness / party to speak up...

Clerk

-ask for party to spell name for the record

Vassar, Marie [No Oath Administered]

-spells name for the record

-correction made for the record, report: when medication last administered / received [dates]

-met w/ Mr. Bigley : summary of contact / he requested not to speak in presence of counsel

-held in kitchen area / was quite agitated

-questions asked of him / his responses summarized [reads in report]

10:45:14 AM

Gottstein inquires of Ms. Vassar

-no, I did not

-my role

Clerk reminds witness to speak up / tendency to fade...

Vassar

-apologizes

-who I talked to / interviewed in preparation of this report

-Guardian, AMCH: Ms. Davis; API...

10:46:59 AM

-if I should have talked to his attorney [addressed by Mr. Gottstein]

10:47:17 AM

-first paragraph of report addressed / his responses: "it doesn't matter"

-how long I have been doing these [reports]...since about 2000

-8 years or so...

-no, I ...when I started...

10:48:04 AM

-why... long history there / here; prior to [?] Meyers... a visitor had been appointed; I had been doing this for about 12 years... describes history ... since visitor could not talk to the respondent

-she did request that I come out ... and that is what I did

-I did not do the initial assessment

-when I became involved on Superior Court level; there was some non compliance in history... explained

10:50:18 AM

Court

-am not sure why the history of other clients in / of other years is relevant

-move on to another topic or explain to me why relevant so I can make a ruling

Gottstein

-a pattern of ignoring the Statutory requirements

Court

-that may be but how relevant to the topic on / as to this client here?

Gottstein
-is relevant

Court
-responds

10:51:28 AM Gottstein
-apologizes
-purpose of this inquiry of witness...

Court
-state why relevant

Gottstein
-in context of his responses: "it doesn't matter"...in the report..

Court
-how you can inquire of witness...what / how it meant

10:52:55 AM Gottstein [continues inquiring of witness]
-how often I am here ...every Tuesday
-number of reports / individuals...how many recommendations v. findings – about three or four

10:53:46 AM -here at the hospital, he refused medications...

Court
-[addresses Gottstein] ask questions...I don't want speech / statements

10:54:23 AM -I think by Statute, a person is supposed to be competent to make a decision before the hospital gives / administers medications
-if that is / was documented in his chart: yes, I believe it was...I talked to the doctor, PNA, I do review...

10:55:25 AM Gottstein
-addresses witness...hands document to witness

Court
-will mark that as Exhibit A

10:55:55 AM Gottstein
-continues inquiry

-I do recognize this...regular hospital record

Pohland
-objection...1-17-06 date

Court
-will permit it w/ some leeway

Gottstein
-continues w/ inquiry

Court

-how to ask question

Pohland[?]

-objection, not relevant – date of document here

Court

-how to make relevance / connection here... addresses Mr. Gottstein

Gottstein

-continues inquiry of witness

-yes

-yes, outpatient basis / shows voluntary admission of medication

Gottstein

-move to admit this Exhibit A

Pohland

-objection

Court

-responds [inaudible]

Clerk interjects...

-confirms if Exhibit A admitted?

Court

-it was admitted [Exhibit A]

10:58:47 AM

Gottstein

-Exhibit B...inquires of witness

-yes, these are hospital records

Pohland [?]

-objection to these

-basis of objection...summarized

10:59:22 AM

Court

-Exhibit B admitted

Gottstein

-continues to inquire of witness

Pohland [?]

-objection, relevance

Court

-overruled

-yes, that is what it says

Pohland [?]

-calls for speculation

Court

-overruled

-he was offered medication...

11:01:19 AM

Pohland [?]

-objection, relevance

11:01:32 AM

-anytime implication that he refused...there is an indication that he was offered medication

Gottstein

-page 20 of document addressed / continues inquiry

11:02:13 AM

-yes, medications were offered [as listed]

11:02:25 AM

Pohland [?]

-objection

11:02:41 AM

Court

-directs party to identify self before objection...

Pohland [?]

-id's self

-basis for objection summarized

11:03:05 AM

Court

-I thought these were documents in API charts / discovery...

-inquires of witness [RE: time / history of]

-no, I did not review these records from '06 for these proceedings

-clarifies

11:06:47 AM

Court

-relevance of histories / records...addressed, if relevant and responses during examination at this time...

11:07:15 AM

Gottstein

-okay, will move to page four of report then...continues to inquire of witness

11:07:36 AM

-possible side effects addressed, yes, I included those in

11:08:19 AM

-it may have gone beyond what...how the respondent was interacting...what the Court might find useful...

11:09:00 AM

Pohland [?]

-objection

Court
-overruled

Vassar
-yes, why included
-a little over 200 days in custody

Gottstein
-inquires of costs involved in custody status

Pohland [?]
-objection, relevance

Gottstein
-responds

Pohland [?]
-remarks / argues

11:10:31 AM Court
-the point that you are trying to make ... confirms w/ Mr. Gottstein

11:10:45 AM Gottstein
-yes, at a minimum

Pohland [?]
-responds

11:11:15 AM Court inquires of witness re: information on billing...

-I have no idea

Gottstein
-nothing further

Court directs Mr. Bigley to be leave courtroom before proceeding w/ telephonic witness...

Pohland [?]
-request to have clerk call witness at number provided

11:13:23 AM **PAUSE**

Clerk confirms if conference call to be set up or merely calling to confirm witness availability

Court
-remarks to parties: RE: communications / accommodations
-addresses clerk...we will call the witness here in courtroom ...

11:15:01 AM Party on phone

PAUSE

11:15:30 AM Court
-confirms party's identity on phone

11:15:37 AM -who is present in courtroom [summarized]
-representative from API, Guardian, Gottstein, State

11:16:05 AM **Witness Sworn/Affirmed:**

Wendi L. Shackelford

11:16:26 AM **Direct Examination by Laura Derry**

(I am familiar w/ Mr. Bigley
(how familiar w/ him
(in the last six months, he has been having a lot of police contact; I listed / presented his calls in spreadsheet to show some pattern ... three pages in length / purpose of spreadsheet
(contents of spreadsheet summarized

11:18:35 AM (how many times: arrested: 3-10-08 to 10-10-08... will need a moment to count them
(I asked the records supervisor to ... emails here / Kimberly Norton ... supervisor / information that I requested from her: from that request : results – June 22, 2008: DC and criminal Mischief
(July 11 and July 23: trespass / other dates listed, charges for each date listed
(dates of arrests... clarified ... multiple contacts
(in Sept: arrests... charges summarized

11:22:29 AM (complaining witnesses / locations listed from data / spreadsheet... summarized

11:24:02 AM (police procedures w/ regard to Mr. Bigley... many times, he will have left prior to our arrival / cited for other times – explains
(no
(my own contact / direct interaction addressed...

11:24:45 AM (I was a part of a working group w/ him: trying to come up w/ problem solving... to address him
(I work for Anchorage Police Dept...

11:25:32 AM (I don't know if he actually understands charge: trespass... I have not directly talked to him
(other officers are aware of some of the places that he has been trespassed from / normal procedures that occur in addressing ... summarized

11:26:35 AM (when transported to jail... I have heard recordings of him; he was yelling / verbally ranting and raving / common thing that I have seen in officer's verbage; he was very verbal: sometimes cursing, screaming at people... that kind of behavior
(what happens at the jail... I cannot answer that / Laura Brooks is better person to answer that question / all I know is what I have been told
(yes, I am concerned ... my biggest concern is that he will engage w/ someone who does not understand his health issues and does not understand him and will react / concern for his safety and for those who frequent those locations that he goes to

11:28:57 AM **Gottstein inquires of witness**

Pohland / Derry [unidentified]
-objection, speculation

Court
-clarification needed

Pohland / Derry [unidentified]
-objection, calls for experience

Court
-how the witness can answer...explained

11:30:36 AM (examples from spreadsheet: words used in documentation: read aloud directly
(yelling and screaming / subject saying he is God / verbal argument at bank w/ his [the] guardian /
yelling racial slurs, ranting and raving...
11:31:32 AM (if aware of a medication ...

Pohland / Derry [not identified]
-objection

Court
-clarification...

11:32:01 AM (I do know that ...related to medications...not sure if API or Department of Corrections ...not sure
if that is what you are talking about
(if pattern of charges being filed and then dismissed due to incompetency...yes, I am aware of
that

Pohland / Derry [unidentified]
-objection, asks / calls for personal knowledge

Court
-can answer if she knows

Gottstein
-repeats question

11:33:28 AM (not sure of any pattern but am aware of specific instance[s] of when that has happened
(I know that emergency services came out in the field and performed an evaluation / two or three
months ago...

11:34:10 AM (one or two instances as of late...what information that I do know

11:34:28 AM Court
-emergency services: clarify

(Mobile Crisis, my understanding

Gottstein
-correct

11:35:02 AM (who they are and what they do / role: go out into the field and do consult /
evaluations...outcomes / findings
(ex parte finding for recommendations [examples]
(not sure if they transport people anymore...I know that they have in the past
(APD officers assistance in this...

11:36:04 AM (when they do an evaluation ... commitment criteria, if and when met...what is done – ex parte
application

Pohland / Derry [unidentified]

-objection
[no ruling]

11:36:51 AM (Mobile Crisis can go out in the field and meet w/ the person and determine if an ex parte hearing / application is appropriate
Pohland / Derry [unidentified]
-objection, relevance

11:37:37 AM Court
-his history... clarification
Derry
-the State's position / this witness's testimony

11:38:11 AM Court
-I'll allow it...overrule objection
-what Court is interested in [summarizes Mobile Crisis Service role]

11:38:50 AM Gottstein continues inquiry
-repeats previous question

11:39:17 AM (I don't work for Mobile Services...I know that they have capability, if they have probable cause then they can apply for...under Title 47...similar to what APD officer can do...or anyone
Pohland / Derry [unidentified]
-objection, speculation
Court
-don't answer question if you don't know
(don't know
Pohland / Derry [unidentified]
-calls for speculation
Court
-overruled

11:40:46 AM Gottstein
-if you know of any pressures...will rephrase
-do you know of / if anyone has been complaining about API discharging him too quickly since May
Pohland / Derry [unidentified]
-objection
Court
-overruled

11:41:37 AM (I don't really see a difference / see a spreadsheet here for six months' time w/ the same issues over and over again
(if aware of a group of people that need to talk about individuals w/ similar conditions ...issues...referred to as "frequent fliers"...I am aware of a group of us that have met to try to come up w/ remedies to address his criminally ill issues...determine a pattern of conduct; he needs mental health treatment ...not incarceration
(problem solving to see how we can get this in mental health ...explains

Pohland / Derry [unidentified]
-objection, speculation

Court
-answer question if you know

(what I do know – explains – if psychotropic medications.../ I have not had a personal conversation w/ him regarding his position on this
(who is in this group: you can contact Mr. Jerrard [Girrod]

Pohland / Derry
-objection

Court
-ask another question

11:45:44 AM (if someone else in community ...helpful to him: my understanding ...it takes time for him to let others in his personal circle...to develop relationship of trust [example]
(in looking at the six month snapshot: appears to be clear to me that is not interacting w/ anyone in the community

Pohland / Derry [unidentified]
-objection

Court
-overruled

11:47:29 AM (Personally, I don't think he would engage w/ someone in the community

11:47:45 AM **PAUSE**

11:48:07 AM (his criminal involvement: if considered as "serious" crimes...depends on how you define "serious"
(that is, sometimes, subjective...depending on the person on the receiving end; but, he has not punched or stabbed someone...

Gottstein
-nothing more

11:49:14 AM **Re-direct Examination by Derry**

(no...not arrested by his attorney's office
(if contact made at his attorney's office – by APD...someone is calling from Mr. Gottstein's

11:50:21 AM office...number of times / when and where: information on spreadsheet
(if he is being criminalized for having contact at Mr. Gottstein's address: yes but the other thirty entries here...his behavior that scares others / trespass but...does not directly address his mental health conditions...similar to heart conditions that need to be addressed / analogy and example

11:51:18 AM (it appears to me that whatever he is doing or not doing...is not working
(times that we have been called

11:52:10 AM **Re-cross Examination by Gottstein**

11:52:38 AM (calls from office: guardian versus Gottstein : addressed
(issues are very similar: refusal to leave, verbal, disruptive, screaming, trespassing multiple times...yes, I would say that they are very similar

11:53:12 AM Court
-excuses witness to hang up
-confirms order of witness to be called / to testify next

[Previous witness returns to witness stand]

11:53:56 AM **Cross Examination of Ms. Vassar by Ms. Derry**

(how long familiar w/ Mr. Bigley
(needs and wants – in the last year: ability to understand

Court
-asks witness to move microphone / speak up

11:54:44 AM (usually, when I see him...he tells me what he wants: examples given:
(wants to California to see Al Pacino, wants to go to Cuba, wants money...

11:55:56 AM (depends on what I have asked him...not sure what you are asking; he has asked me for coffee /
what I do in response to that kind of request

11:56:34 AM (he will usually speak to me – when in hospital / why at the hospital...

11:56:52 AM (of late, within the last couple of years, harder to discuss subject of medication w/ him
(in the past...ability for him to focus / understand
(there was a time for him to better understand...explains

11:57:55 AM (no, I do not

Clerk asks witness to keep voice up...tendency to fade out...

(he has been medicated: addressed

Derry
-nothing further

11:59:07 AM **Re-direct Examination by Gottstein**

(my involvement in his matters...do not believe he has the / a capacity in this case...
(I would have no way of knowing...

Derry
-objection, speculation

Court
-overruled

(Bill always knows who I am / I don't know if he always knows...how he processes what I do and who / what I am: I have often wondered about that ...

Derry
-objection [inaudible]

(I have thought of that as well...always engages in / at some level
(he never says he does not want to talk to me / that woman
(I think he wants to engage...don't think he has the ability to focus in the last couple of years
(really hard for me to watch him deteriorate the way he has...

Derry
-objection, speculation

Court
-overruled

12:02:53 PM (Bill is a really sociable guy / history – relationship summarized...but right now, I would have to agree w/ Officer Shackelford; not able to have ability to form any real alliance...explains
(his bonding relationship in the past...compared to now
(not able to make that kind of commitment

12:04:31 PM **Court inquires of witness**

(no, he did not initiate that kind of conversation outside of API
(his attitude / if he talked about medications ...in any way
(sexual side effects / reasonable side effect but he has told me / referred to medications as poisons...but no specifics
(he says it kills his brain

12:06:24 PM (I don't think he is thinking...statements he has made of late...agitated and upset
(never see any moments of re-consideration...he just comes right back at you... comments he makes; don't feel that there is any reflection made...
(describes / recalls when initially involved in his admissions at API : needed assistance to make appointments, getting the bus; he really liked Dr. Thompson...
(when outside care providers are requested to assist ...explained
(his ability to bond / his behavior – addressed as seen here [today]
(I was surprised at how willing / accepting he was when the Court asked him to leave today...
(his conduct in the past v. today: addressed / when he is given options...impact of behavior...impact of setting...

12:14:08 PM Gottstein
-follow up inquiry of witness

(know of a lot of rumors about that
(but not sure

12:14:44 PM Court
-excuses witness to step down
-my afternoon calendar...believe I may have a 1:30 hearing ...may need to stop at 1:00
-discusses w/ counsel / parties' preference : how to proceed w/ scheduling of witnesses
-will take a quick break and proceed w/ other witness[es] on phone
-will start at 8:30 tomorrow and go until approximately 1:30

12:17:29 PM Court
-will take five minute recess

12:17:58 PM **Off record subject to call [phone remains on overhead]**

12:25:51 PM **On record**

12:26:08 PM **Court**
-now on record
-who is present, for the record

12:26:29 PM **Witness Sworn/Affirmed:**

Dorothy Pickles

12:27:19 PM **Direct Examination by Gottstein**

(my employment history / qualifications summarized
(hospitalization history – twice – API
(my title / responsibilities ...described: advocate for patients / help better understand ...
(mental health consumer / care, yes
(significance in my work: yes – effect on both sides of / role...training and knowledge and
experience as social worker and patient ...explained / it very much helps me relate to other
patients...

Gottstein
-letter addressed w/ witness

Clerk
-is this an exhibit?

Gottstein
-marked as Exhibit D

(letter from Ron Adler here...contents of exhibit described in summary

Gottstein
-move to admit Exhibit D

Derry [?]
-objection / relevance

Gottstein
-argues

Derry
-responds

Court
-what is the pattern, in a nutshell and why relevant?

12:31:20 PM Gottstein
-why relevance / retaliation if witness / testimony occurs

Derry [?]
-still object

Court
-inquires of Gottstein... anything else?

Gottstein
-continues...

12:32:28 PM Court
-responds...if we are to assume relevance / pattern does exist...how do we address / use here?

Gottstein
-responds

Court inquires further of Gottstein.

12:33:50 PM Derry
-Jan 8, 2007: date of this letter / not relevance
-contents ... completely irrelevant

Court
-anything further?

Gottstein
-no

Court
-Exhibit D not admitted, marked and offered
-explains limitation for Court's consideration...here

Gottstein
-may I make an offer of proof on this, if I may?

Court
-yes

Gottstein inquires of witness
(yes, everything in letter is true and correct

Derry
-objection, relevance

Court
-this is only to show as an offer of proof
-not testimony

(yes

12:36:24 PM

Gottstein
-will now move to other topic
-continues to inquire of witness

Derry
-objection...

Court
-is leading but will allow it...explains

12:37:28 PM

(charting is done, I believe, to achieve purpose of staff; is subjective...explains; for one's own bias... what is done

Derry
-relevance?

Court
-will allow it [inaudible, in part]

12:38:17 PM

Derry
-objection, relevance

12:38:29 PM

(yes
(what that means: in my opinion, one who is agitated: might be pacing, aggressive, appearing to be very...not calm...as a ...but that is all subjective as to what is calm or how one defines these terms because base lines could be different

12:39:24 PM

Cross Examination by Laura Derry

(if I have had contact w/ him within the last six months
(2005: last time I worked at the hospital / procedures and policies: generally
(if aware that he had been having frequent contacts w/ APD: not aware but not surprised...because of having known him
(I have known him when medicated; he stated he did not want to take medications..when

Derry
-no further questions

12:41:07 PM

Re-Direct Examination by Gottstein

Derry
-objection, relevance

(yes

Derry
-objection, relevance

(depends on your / one's definition of competence / competent: his demeanor recalled

12:42:07 PM

Derry
-asks that testimony be stricken / basis for motion explained, in sum

Court
-inquires of witness [RE: when contact made / span of employment...]

12:42:39 PM

(when I worked at the hospital
(number of conversations I have had w/ Mr. Bigley: addressed – as explained / described by
Court – probably five or six [RE: medications / his position]
(on more than one occasion he told me that he desired not taking medications...recalled, in part,
comments made
(my definition of competence / competent: when he made those comments – addressed

12:45:59 PM

Court
-thanks and excuses witness to step down

PAUSE

[Ms. Derry retrieves next witness from hallway]

Court
-who is next witness?

Derry
-Malinda Natanek, spells name of next witness at Court's inquiry

PAUSE

[Mr. Bigley now present in courtroom proceedings]

12:48:25 PM

Witness Sworn/Affirmed:

Malinda Natanek

12:48:45 PM

Direct Examination by Laura Derry

(I first met Mr. Bigley in 2002 / I was a clinician at South Central which is now AMCH
(my role there as clinician – described
(yes, I delivered medications to Mr. Bigley / myself and case manager drove to his home six days
a week / how we did that: describes procedure
(medications individually packaged; he lived at Govt. Hill at that time
(we would arrive in morning / we'd knock on door and chat w/ him ... he recognized us
(April 2002- Sept 2004: how long I worked as role / position
12:51:02 PM (his personality: recalled / we'd take him out for coffee / I was able to engage with him in
conversation / he'd joke and laugh; he was sociable man, yes
(I am now a forensic worker at API / how long employed here / assigned in TAKU unit

CONFIDENTIAL

(before, when I first met him: he would engage in conversation and in the past year since he has come into TAKU unit, he just kind of yells / not sure if he remembers me; he is too psychotic to engage in any kind of conversation w/ me
 (Oct. 21 to present: I have not been able to engage w/ him at all ; he just walks away; calls me derogatory names; flips me the bird...those kinds of things
 (previously, delivered medications – when / how often
 12:54:46 PM (now, he has refused medications at API ...yes
 12:54:57 PM (as a social worker at API ...at forensic unit, specifically, I make sure discharges are arranged / confirms Dr. Michaud has everything needed for evaluations; I make sure follow up appointments and medications are in place before discharge;
 12:56:09 PM (make sure Mr. Bigley had a care provider, services in place, etc...
 (we have brought in three different case managers for him / he refuses to meet with him – which is needed for discharge procedures...
 12:57:04 PM (at times, he refuses food; he believes it is poison / poisoned
 (I feel he would benefit from medications; he had lived at Govt Hill for well over a year; on an out patient basis, he would get his medications and now he seems to be bouncing back and forth : API and Department of Corrections ...
 (no...he has not expressed ability to understand...
 Court
 -clarification in question requested
 (to my knowledge, no
 (if he is capable of understanding the full spectrum / purpose of medications: more capable in 2002 when he was on the medications / he could identify them but now, no
 12:59:10 PM (personally, I would like him to go back on the medications
 (he only had to take them every two weeks ...in past...which allowed him to live independently in the community; to my knowledge, he came here on his own to get his injections and never had to be restrained or accompanied
 1:00:03 PM **Cross Examination by Gottstein**
 (correct
 Derry
 -objection
 1:00:24 PM (I don't know if he can make that decision at that / this point...yes, he has expressed objections to taking medications
 1:00:48 PM (the main thing that we are trying to set up: case management for him – to arrange housing, services
PAUSE
 Court
 -admonishes Mr. Bigley...will have to ask you to leave if you are not quiet
 1:01:30 PM (what a case manager does: can physically go out to the person's home, engage services, be a support for the person in the community; basically, check in on him / her
 Derry

-objection

(to my knowledge, they would meet w/ the person for one time a week
(how frequent / how long the visit would be
(when I worked w/ the agency, there were people that I would call on a daily basis
(no, I would not stay w/ the person for days...not a full day, no
(why: living facility would be able to provide that ...example
(examples of activities / engagement with patients addressed

1:03:44 PM

Derry
-objection

Court
-you may answer the question

(yes, to better identify w/ the person

1:04:17 PM

Court inquires of witness

(when 2002, when delivering medications to him...addressed
(yes, team members / involvement
(when he declined medications, on occasion, yes
(recalls: it would vary...there were times when he would not be home
(when he did say "no" to medications' offer...number of times: it would really vary...there would
periods of time when he would take them and then there would two or three days time when he
would not take them...
(I don't recall how many days in a row before I would need to take further action as described...

1:08:06 PM

PAUSE

1:08:49 PM

Re-cross Examination by Gottstein

(when he was able to make that decision, yeah
(ability to know ...when not psychotic

Derry
-objection

Court
-overruled

(sure

1:09:43 PM

Re-direct Examination by Derry

Derry
-question posed of witness
-what I would do to ensure that one would not make me take medications
-withdraw that question

(what is now available for Mr. Bigley in the community: tried to get case managers for him / three

of them

(he has expressed desire to go to Cuba / know he is not really wanting to go there
(2005 – I believe it was through his attorney

(my role as social worker / do not believe he can give informed consent at this time
(if he tells me that he wants to take medications, now...no...not capable

1:13:02 PM

(if he said he would take medications- right now -...if I would believe he truly wanted that...I would
say no because I don't know if he would be able to know its benefits and what they are ...at this
point

1:13:45 PM

Court inquires of witness

(I would say typically, five to six days

1:15:38 PM

(I know that he had been on "early release" in the past and was directed to re-admit him if he
refused medications

1:16:17 PM

(both: "re-intervene" – what that would involve – sometimes, Bill had staff that he liked better than
other staff; we tried to get the staff that he liked better to come out and see him / why

(if that did not work very well...if he continued to refuse [medications]...I would file an ex-parte if
he was deteriorating ...if he was on early release versus not being on early release: explains
course of action

(I know that we had to present Mr. Bigley w/ a form...explains purpose / procedure

(not technically committed...when condition would get so bad – course of action to be followed,
yes [confirms Court's question / outcome...]

1:20:13 PM

(Anchorage Community Mental Health – role of ...confirmed

(to my knowledge: period[s] of time recalled...

1:20:57 PM

Gottstein inquires w/ follow-up inquiry

(I don't recall in 2002 at that time; I would have to say "no" since he was taking daily medications
(rules, in general: general conditions for his release in community summarized
(if that is / was legal criteria

Derry

-objection

Court

-if you know, you can answer

Gottstein

-will move on

-if there was an order

1:22:41 PM

Derry

-objection, asked and answered

Gottstein

-she said "yes?"

Court

-was answered

1:23:13 PM

Gottstein continues inquiry

1:23:35 PM (I cannot ...
(he was / is angry here ... he also laughs a lot here
(I haven't been on this unit...to answer that

1:24:07 PM Court
-need to move on
-excuses witness to step down
-will now reconvene at 8:30

1:24:46 PM **Off record**