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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-08-1252 PR

Not Confidential *** CONFIDENTIAL * * * Jim Gottstein

TRANSCRIPT OF HEARING

BEFORE THE HONORABLE WILLIAM F. MORSE Superior Court Judge

> Anchorage, Alaska November 10, 2008 8:37 A.M.

APPEARANCES:

FOR THE STATE: Laura Derry, Esq. Erin Pohland, Esq. Assistant Attorney General 1031 West 4th Avenue, Suite 200 Anchorage, Alaska 99501

FOR THE RESPONDENT: James B. Gottstein, Esq. Law Project for Psychiatric Rights 406 G Street, Suite 206 Anchorage, Alaska 99501

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1	that isn't already in there. If I had more time, I	1	six witnesses
2	probably could have made it shorter. But anyway, I	2	MR. GOTTSTEIN: They are being reasonable,
3	hope the court will find that helpful.	3	yes. They gave us (indiscernible).
4	I'm trying to one of the issues has been	4	THE COURT: And you are willing to
5	why Mr. Bigley quit taking Risperdal Consta in October	5	(indiscernible)?
6	of '06, and nobody Dr. Khari wasn't able to testify	6	MS. POHLAND: Well, I sent it to you for you
7	to that, and Dr. Worrall was the treating physician at	7	to sign it.
8	the time and filed a couple of a commitment	8	THE COURT: It's been signed. Is that so
9	petition and forced drugging petition at that time.	9	will that necessitate does the state want to cross
10	And so I at first I tried to get a	10	examine any of the six beyond that? Last time you
11	stipulation and affidavit. Anyway, we were trying to	11	were making some reference to, at least for some of
12	subpoena him. And tentatively, he's he didn't want	12	those witnesses, not wanting to cross beyond
13	to come here. He wanted to do it by telephone at 11.	13	establishing that fact, other any of those six did
14	And then Dr. Wolf, who did an independent	14	you want to cross examine?
15	evaluation, as I've been mentioning before, I wanted	15	MS. POHLAND: Well, Dr. Mosher is deceased.
16	to get him to testify. And he's he's been	16	(Indiscernible) cross him.
17	subpoenaed and I've asked him to come he's only	17	But otherwise, we'd like them all to be
18	really available between 11:30 and 1 today all this	18	available for cross, frankly. Testimony wouldn't be
19	week. So those are that's kind of	19	an extensive cross, but
20	MS. POHLAND: Your Honor, Dr. Wolf didn't say	20	THE COURT: All right. Then they'll just be
21	that he wanted to testify at 11:00.	21	available when we when we get to that.
22	He he's willing to, as is the State,	22	Now, let's talk about exactly when that is
23	willing to stipulate that the two documents that	23	here as we get further with the State case.
24	Mr. Gottstein has referenced regarding the petitions	24	And in terms of these objections, I'll read
25	for 2006 I currently don't see their relevance to	25	them later or are these objections, the
	Page 7		Page 9
1	the current proceeding, but the State is willing to	1	(indiscernible) internal components of them, or are
2	stipulate to their authenticity and enter them into	2	they objections to everything?
3	the record.	3	MS. POHLAND: They are objections based on
4	MR. GOTTSTEIN: Your Honor, if I may.	4	relevance on the admissibility of Dr. Mosher and
5	THE COURT: Well, if you agree to the	5	Ms. Porter's testimony based on their unavailability.
6	do we agree to the admission of those two documents?	6	And then there's a further objection that
7	Is that (indiscernible) both parties want?	7	none of these, quote, unquote, affidavits are true
8	MS. POHLAND: The State's (indiscernible).	8	affidavits under Alaska law. They are merely
9	MR. GOTTSTEIN: Yes.	9	notarized letters, other than the affidavit of Paul
10	THE COURT: All right. What are they? G	10	Cornils.
11			
1 I I	MR. GOTTSTEIN: Yeah. It's both G. There's	11	MR. GOTTSTEIN: And that's that's
12	a petition for 90-day commitment, petition for a	11 12	THE COURT: But they are just objections
	a petition for 90-day commitment, petition for a forced-drugging petition. They are both the same day.		THE COURT: But they are just objections to they're (indiscernible) objections, if you will,
12 13 14	a petition for 90-day commitment, petition for a forced-drugging petition. They are both the same day. And they they're	12	THE COURT: But they are just objections to they're (indiscernible) objections, if you will, as opposed to some internal line is problematic?
12 13 14 15	a petition for 90-day commitment, petition for a forced-drugging petition. They are both the same day. And they they're THE COURT: So G is admitted by stipulation.	12 13	THE COURT: But they are just objections to they're (indiscernible) objections, if you will, as opposed to some internal line is problematic? Okay. (Indiscernible.)
12 13 14 15 16	a petition for 90-day commitment, petition for a forced-drugging petition. They are both the same day. And they they're THE COURT: So G is admitted by stipulation. (Exhibit G admitted.)	12 13 14 15 16	THE COURT: But they are just objections to they're (indiscernible) objections, if you will, as opposed to some internal line is problematic? Okay. (Indiscernible.) MR. GOTTSTEIN: Okay, Your Honor. And I'd be
12 13 14 15 16 17	a petition for 90-day commitment, petition for a forced-drugging petition. They are both the same day. And they they're THE COURT: So G is admitted by stipulation. (Exhibit G admitted.) MR. GOTTSTEIN: The question is, what the	12 13 14 15 16 17	THE COURT: But they are just objections to they're (indiscernible) objections, if you will, as opposed to some internal line is problematic? Okay. (Indiscernible.) MR. GOTTSTEIN: Okay, Your Honor. And I'd be prepared to address that if you want to at some point,
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12 13 14 15 16 17 18 19 20 21 22	a petition for 90-day commitment, petition for a forced-drugging petition. They are both the same day. And they they're THE COURT: So G is admitted by stipulation. (Exhibit G admitted.) MR. GOTTSTEIN: The question is, what the effect of the admission of the document? THE COURT: You want to call him? MR. GOTTSTEIN: I do want to call him. THE COURT: You can call him. MR. GOTTSTEIN: Okay.	12 13 14 15 16 17 18 19 20 21 22	THE COURT: But they are just objections to they're (indiscernible) objections, if you will, as opposed to some internal line is problematic? Okay. (Indiscernible.) MR. GOTTSTEIN: Okay, Your Honor. And I'd be prepared to address that if you want to at some point, if you feel that's necessary. THE COURT: Let me read it first, and then we'll take it from there. So any other preliminary matters? All right. Then the next witness will be

	Page 10		Page 12
1	please, and raise your right hand.	1	happening with him, to his health and safety outside
2	(Oath administered.)	2	of incarcerations or at API?
3	THE WITNESS: Yes, I do.	3	A It's my understanding that Mr. Bigley has
4	THE COURT: All right. You may be seated.	4	unfortunately been trespassed from a few places
5	Would you state your first and last name, spelling	5	downtown. There've been times when he would go back
6	both?	6	to those institutions, and then when we redirected,
7	Could you because we're trying to record	7	would not be agreeable to the situation. And at
8	off of this, if you would trade seats. You can sit	8	times, the police department had to be called to
9	next to wherever you're comfortable. That way	9	intervene.
10	we'll get a better record.	10	Q And were you made aware by the different
11	THE WITNESS: My name is Steve Williams,	11	people involved with him their concerns for well,
12	S-T-E-V-E, W-I-L-L-I-A-M-S.	12	what is your understanding of what Mr. Bigley's
13	THE COURT: You may proceed.	13	current health is?
14	STEVE WILLIAMS	14	A Physical health, there were concerns in
15	called as a witness on behalf of the State, testified	15	regard to
16	as follows on:	16	MR. GOTTSTEIN: Objection, foundation, I
17	DIRECT EXAMINATION	17	guess. Objection.
18	BY MS. DERRY:	18	THE COURT: You need to lay a foundation for
19	Q Mr. Williams, how do you know Mr. Bigley?	19	his knowledge of physical health.
20	A I know Mr. Bigley from a couple of different	20	BY MS. DERRY:
21	areas of my life.	21	Q Mr. Williams, you convened the meeting in
22	I used to work for the court system. I	22	order to address issues such as Mr. Bigley's health,
23	worked in the Anchorage mental health court. From	23	the health concerns of all the multiple parties
24	time to time, Mr. Bigley would come through that	24	involved?
25	therapeutic court.	25	A Correct.
	Page 11		Page 13
1	I knew Mr. Bigley outside that setting, as	1	Q And were people at the represented people
2	well. I would have contact with him at Side Street	2	from API?
3	Espresso from time to time, as well as see him outside	3	A Yes, representation from API was there.
4	First National Bank there on 4th Avenue.	4	Q And were people from the Providence regional
5	Q And what is your relationship to Mr. Bigley	5	emergency health center also there?
б	now?	6	A Yes.
7	A My I don't have a personal relationship	7	Q And did these parties discuss the health,
8	with Mr. Bigley right now.	8	welfare, and safety of Mr. Bigley?
9	Currently well, not currently, but in	9	A They did, as did the Office of Public
10	September, the Alaska Mental Health Trust Authority,	10	Advocacy and a couple other folks that were sitting
11	where I currently work, was contacted by folks from	11	around that table that spoke to his health, both
12	the Office of Public Advocacy, the police department,	12	physical and mental status, although they may not have
13	and other entities concerned about Mr. Bigley's	13	a physical health background, in terms of education or
14	increased contact with the criminal justice system,	14	profession.
15	and wanting to look at that and maybe come up with a	15	Q And without, you know, requiring a diagnosis,
16	better way of serving Mr. Bigley.	16	what is your understanding of Mr. Bigley in whether or
17	So the trust convened that meeting with the	17	not he can
18	stakeholders. I can on behalf of the trust, I can	18	MR. GOTTSTEIN: Objection, hearsay. I'm
19	convene that meeting.	19	sorry. I probably should have let her finish the
20	Q And at this meeting, what would you say was	20	question.
21	the greatest concern for Mr. Bigley at that time?	21	THE COURT: Do you want to respond to a
22	A Probably his health and safety, just when he	22	hearsay objection?
23	was not in the custody of Department of Corrections	23	MS. DERRY: I was asking Mr. Williams what
24	and at API and just out in the community.	24	his understanding is, not what he had heard.
25	Q And what is your understanding of what was	25	THE COURT: You're going to have to elicit

	Page 14		Page 16
1	his understanding (indiscernible).	1	knowledge of who was actually invited. I was one of
2	MR. GOTTSTEIN: Your Honor, if I may.	2	the invitees.
3	There's no really disagreement real disagreement	3	THE COURT: But you're not willing to
4	that there's great concern in the community and that	4	stipulate to
5	it would be very helpful to have, you know, some	5	MR. GOTTSTEIN: This witness this witness
6	services for him. So I certainly would be willing to	6	knows.
7	stipulate to that.	7	THE COURT: If (indiscernible) stipulate,
8	BY MS. DERRY:	8	that's fine. You can bring it up (indiscernible)
9	Q Well, Mr. Williams	9	cross.
10	MS. DERRY: I'm sorry.	10	MR. GOTTSTEIN: Okay.
11	THE COURT: Do you want to stipulate to that?	11	BY MS. DERRY:
12	Otherwise, you're going to have to address I'll let	12	Q Okay. Well, Mr. Williams, now that we have
13	you elicit his understanding. I'm not really sure	13	stipulated that the community is concerned about
14	what that means.	14	Mr. Bigley's health and safety, and also that he's had
15	MS. DERRY: Well, actually, if we the	15	so many run-ins with the police, especially in the
16	State would stipulate that the community is coming	16	last six months, what is your understanding of the
17	together because they are so concerned about	17	difficulty of providing services to Mr. Bigley?
18	Mr. Bigley's health and welfare and safety.	18	A I my understanding is that one of the
19	THE COURT: And so can we stipulate that	19	largest challenges is actually engaging with
20	there have been meetings amongst those participants,	20	Mr. Bigley in a way that is both meaningful for the
21	OPA, APD, API, the trust, Providence, where, among	21	provider as well as for Mr. Bigley, to get a gauge on
22	other topics, there is sort of general consensus that	22	what the services are that he desires, as well as what
23	Mr. Bigley's physical health has deteriorated in the	23	the provider can actually do in the provision of those
24	last six months?	24	services or supports.
25	MS. DERRY: Six months, for sure.	25	Q And does it does it appear in your
	Page 15		Page 17
1	THE COURT: And there is concern amongst	1	Page 17 meetings that there are alternatives available at the
2	THE COURT: And there is concern amongst those entities for his prospective physical health; is	1 2	meetings that there are alternatives available at the time at this time?
	THE COURT: And there is concern amongst those entities for his prospective physical health; is that fair?		meetings that there are alternatives available at the time at this time? A At the time of the meeting, the services
2 3 4	THE COURT: And there is concern amongst those entities for his prospective physical health; is that fair? MR. GOTTSTEIN: Yeah. I didn't want to	2 3 4	meetings that there are alternatives available at the time at this time? A At the time of the meeting, the services service alternatives that were available had been
2 3 4 5	THE COURT: And there is concern amongst those entities for his prospective physical health; is that fair? MR. GOTTSTEIN: Yeah. I didn't want to (indiscernible) his physical health. I know there's	2 3 4 5	meetings that there are alternatives available at the time at this time? A At the time of the meeting, the services service alternatives that were available had been exhausted.
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	Page 18		Page 20
1	and engage Mr. Bigley in services. And to my	1	Q Wouldn't you assume that it wouldn't?
2	knowledge, they have been working towards that. With	2	A No, I wouldn't.
3	what intensity, I can't say.	3	MS. POHLAND: Objection, calls for
4	Q And you said your first meeting was in	4	speculation.
5	August, this meeting about Mr. Bigley?	5	THE COURT: Sustained.
6	A It was either late August or early September.	6	BY MR. GOTTSTEIN:
7	I think it was actually early September.	7	Q Is the the agency that you said is working
8	Q And so it's been about three months, and	8	towards establishing a new relationship with him is
9	you're still looking for alternatives but there aren't	9	Anchorage Community Mental Health Services?
10	any definite alternatives at this time?	10	A To my knowledge, that is the agency.
11	A Not that I am aware of.	11	MR. GOTTSTEIN: I have no further questions.
12	MS. DERRY: No further questions.	12	THE COURT: Any redirect?
13	THE COURT: Cross?	13	MS. DERRY: Yes, Your Honor.
14	STEVE WILLIAMS	14	STEVE WILLIAMS
15	testified as follows on:	15	testified as follows on:
16	CROSS EXAMINATION	16	REDIRECT EXAMINATION
17	BY MR. GOTTSTEIN:	17	BY MS. DERRY:
18	Q Now, I wasn't I wasn't invited to any of	18	Q Mr. Williams, were the public defenders
19	these meetings, was I?	19	invited to this meeting at the Mental Health
20	A There's only been one meeting, and no you	20	Authority?
21	weren't there. And you weren't invited at that time.	21	A I believe they were, yes. But
22	Q Why?	22	Q Did they attend?
23	A It was not my to my knowledge at that time	23	A I don't recall off of top of my head. There
24	that you were representing Mr. Bigley.	24	was representation from the AG's office for the
25	Q Do you think his lawyer should be invited to	25	Department of Health and Social Services.
	Page 19		Page 21
1	such a meeting?	1	Q When you set up this meeting, was it to
2	MS. DERRY: Objection, relevance.	2	discuss whether or not to medicate Mr. Bigley?
3	THE COURT: Overruled.	3	A No.
4	THE WITNESS: Do I think his lawyer should be	4	Q Did anyone in that room have the authority to
5	invited to such a meeting? I can't see why not.	5	medicate Mr. Bigley?
6	BY MR. GOTTSTEIN:	6	A Not that I am aware of.
7	Q Now, isn't it true that one of the reasons	7	Q And is it your understanding that
8	why Mr. Bigley doesn't like to engage in services is	8	Mr. Gottstein has limited representation, based on
9	that they require him to take drugs he doesn't want	9	whether or not Mr. Bigley is to be medicated?
10		10	A I'm not sure. I don't understand the
11 12	MS. POHLAND: Objection, calls for	11 12	relationship between Mr. Gottstein and Mr. Bigley.
13	speculation.	13	MS. DERRY: No further questions. Thank you.
13 14	THE COURT: You can answer that if you know. Don't speculate.	14	THE COURT: Any recross? MR. GOTTSTEIN: No, Your Honor.
14	THE WITNESS: I don't know.	14	THE COURT: Thank you, Mr. Williams.
16	BY MR. GOTTSTEIN:	16	Is there any reason why he can't be excused?
17	Q Are in the past to your knowledge, aren't	17	MS. POHLAND: No, Your Honor.
18	all the services that are being offered to Mr. Bigley	18	THE COURT: Thank you.
19	require him to take psychotropic drugs?	19	(Witness excused.)
20	A I don't know.	20	THE COURT: Next witness.
21	Q When now, you mentioned in the Division of	21	MS. DERRY: Yes, Your Honor. The State would
22	Behavioral Health looking at in his case	22	like to call Steve Young.
23	specifically, do you know if that program will require	23	THE COURT: (Indiscernible.) We are trying
24	him to take psychiatric drugs?	24	to record off of this (indiscernible). We need to get
25	A I do not know.	25	(indiscernible).
			·

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1	THE WITNESS: And I'm here in two roles	1	the hospital to evaluate his medication. He had a
2	today, Your Honor. Mr. Hughes wasn't able to be here	2	long history of not being compliant with medication as
3	this morning, and so I am standing in for him.	3	soon as he discharged from the hospital.
4	THE COURT: Just stand (indiscernible).	4	The hospital was willing to consider the
5	(Oath administered.)	5	injectable type of medication, the Risperdal. And
6	THE WITNESS: I do.	6	he so he discharged on that with an early release
7	THE COURT: You may be seated. Could you	7	discharge order, so that we could see if he would
8	state and spell your full name, please.	8	we could get him into services and if he could be more
9	THE WITNESS: My name is Steven Young,	9	treatment compliant on this (indiscernible)
10	S-T-E-V-E-N, Y-O-U-N-G.	10	medications. It only required him to consider it once
11	THE COURT: You may proceed.	11	every two weeks instead of every single day.
12	STEVEN YOUNG	12	And we worked hard on that actually, and in
13	called as a witness on behalf of the State, testified	13	finding him an apartment, because he wanted to live on
14	as follows on:	14	his own in the community.
15	DIRECT EXAMINATION	15	And you want me to just keep going?
16	BY MS. DERRY:	16	Q Oh, I can ask questions.
17	Q Mr. Young, what is your relationship to	17	THE COURT: You need to speak you're soft
18	Mr. Bigley?	18	spoken. I want to make sure you're captured on the
19	A I am a public guardian with the Office of	19	THE WITNESS: Okay. So on the early release
20	Public Advocacy, and I was Mr. Bigley's guardian	20	discharge order, Mr. Bigley was required to come to
21	beginning in 2005, and was his guardian until a	21	API. API agreed to be his outpatient provider.
22	settlement agreement in the guardianship matter that	22	And initially that meant that API provided
23	assigned Mr. Hughes, Jonathan Hughes, as his primary	23	the medication, and Mr. Bigley would come here every
24	guardian.	24	two weeks and get an injection of risperidone.
25	And so I worked with Mr. Bigley when he was	25	And I think the first time that he had to
	Page 23		Page 25
1	discharged from the hospital here in May of 2005. And	1	come back, he he didn't make it. And he had to
2	because he didn't have any direct services at the	2	actually be violated on the early release discharge
3	time, I assisted him with a variety of things, from	3	order.
4	grocery shopping, to cigarette shopping, to apartment	4	And the problem with that was that, of
5	finding and renting, and that sort of thing, for a	5	course, somebody had to file the violation, an
6	period of about 16, 18 months.	6	outpatient provider, and then Mr. Bigley had to be
7	Q And you how would you describe your	7	brought into the hospital through I believe judicial
8	relationship with him, as his guardian?	8	services, was the ones who served those things.
9	A It had its ups and downs. But I think in	9	And so as a result, he was usually upset when
10	general we had a pretty good relationship.	10	he when he was brought in that way. And he had to
11	I found Mr. Bigley to be a very honest	11	stay more than a couple of days. I think it would be
12	person, somebody who is fairly dependent on other	12	three, four, five days, sometimes a week. And this
13	people, fairly well-centered around his priorities,	13	happened in the very beginning of the early release
14	which I think goes something like cigarettes, coffee,	14	discharge with him. But then he started coming on his
15	food, housing.	15	own shortly afterward.
16	And he was discharged in approximately May.	16	And API soon stopped providing the
17	My memory might not be perfectly good, but around May.	17	medication, and instead, because he was a Medicaid
18	It was an arrangement that I worked on with a social	18	recipient, asked a local pharmacy to provide the
19	worker here named Ann O'Brien (phonetic), I believe.	19	medication to the hospital.
20	And the the issue was we had recently been	20	And then when he would come, if the
21	appointed as guardian. I believe API petitioned it	21	medication wasn't here the way it was supposed to, he
22	and OPA was appointed as a full guardian. Prior to	22	might have to leave and come back the next day, he
23	that, we had been only a conservator. We were a	23	would come down to my office and explain what
74			nonnonod And hold ha a little unget because he was
24 25	conservator for a number of years. And so the arrangement was to, you know, ask	24 25	happened. And he'd be a little upset because he was put out that he had to come here and then come back.

	Page 20		Page 20
1	But he was compliant with this program, and	1	him that if he goes and gets his his injection once
2	he did fairly well. He stayed in the same apartment	2	every two weeks, he may not have to go back, that it's
3	from May of 2005 through September of 2006.	3	just a matter of getting the medication, and that
4	And it wasn't without some incident, because	4	helps him in the community.
5	there would be times when, you know, he had bad days,	5	And we wouldn't focus on it. And two weeks
6	even though he was compliant with the medication.	6	later, he would go back without being prompted.
7	And but by and large, he was able to, you know, go	7	Q And when he came to the hospital, did you
8	to the store, buy his own cigarettes most of the time.	8	bring him to the hospital or did he make it here all
9	Sometimes he was told he couldn't come back into the	9	by himself?
10		10	A He came all on his own.
11	store because he wasn't always appropriate.		
	And I grocery shopped with him every seven to	11	Q How did he do that?
12	ten days. And he would go with me. And he knew what	12	A He took a bus most times. I think on rare
13	he wanted. He could pick out the foods, and we'd put	13	occasion he asked for a cab if the weather was really
14	them in the cart. And we'd go through the line. And	14	bad.
15	he was, you know, with you know, with some	15	Q And so in this time, he never blatantly
16	redirection, appropriate.	16	refused medications, saying that he never wanted
17	And then in September I can't remember now	17	medication?
18	what precipitated it.	18	A No. He would say that, and then he would go
19	THE COURT: September of	19	on his own. He would say that and and we would
20	THE WITNESS: '06. He had he had more	20	remind him that the medications seemed to be doing
21	difficulty he was having a lot of mood issues, you	21	good for him, that it's been a long time since he's
22	know. So he was coming to the Office of Public	22	had to be admitted to the hospital, that he's still in
23	Advocacy.	23	his same apartment, that he's doing a good job keeping
24	And it wasn't that he was completely it	24	the apartment.
25	wasn't it wasn't just from, you know, the normal	25	When he was taking his medication, for
	Page 27		Page 29
-		-	
1	psychiatric symptoms that we would experience from	1	example, you know, you could he would come into the
2	him. It was mood issues. He was sad. He was he'd	2	office because he would say his carpet needs to be
3	go from being sad to being angry and sad again, all	3	cleaned or he needs some extra assistance in the
4	within the same minute.	4	apartment. And he could focus on those things, and he
5	And so we we asked if that couldn't be	5	would come down and we would make arrangements and
6	considered in his in his med regimen. And I	6	they would get done.
7	believe shortly after that, when he came in on an	7	In the summertime he would come down and he
8	admission, some mood medication was added to the	8	would ask to go someplace because he'd get bored being
9	risperidone.	9	in the apartment. So sometimes it was a drive that we
10	But prior to that, he had really only been	10	took out to Point Woronzof when we did weekly grocery
11	addressed by this one antipsychotic medication.	11	shopping.
12	BY MS. DERRY:	12	Sometimes he would want to do something
13	Q And in this time, you said that he was did	13	bigger. One time he went down to one of the bus tours
14	really well from May of 2005 until September of 2006,	14	on 4th Avenue, got some information, brought it back.
15	and that he is that correct?	15	We booked a trip, and he got on the bus and went down
16	A Yes.	16	to Girdwood.
17	Q And that he came he would come to the	17	It didn't go perfectly well. He got brought
18	hospital here, to API, and have a risperidone	18	home with the troopers, but he got part of the trip
19	injection every two weeks?	19	done. And he I think he kind of enjoyed that. So
20	A Correct.	20	he was able to focus on some of those
21	Q And in that time, between May of 2005 and	21	recreational-related things.
	a main mar mine, correcting of 2000 und		-
2.2	September of 2006, did he ever refuse medications?	22	O And when he would come to the office and tell
22 23	September of 2006, did he ever refuse medications? A There were times when he would come to the	22 23	Q And when he would come to the office and tell you that he didn't want to take medications, did he
23	A There were times when he would come to the	23	you that he didn't want to take medications, did he
	-		-

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1	time which we would try to follow up on. One time it	1	Mr. Gottstein began representing him, he was no longer
2	was his feet. He said his feet hurt and he couldn't	2	taking any medications.
3	walk. I mean, he was walking, but so I brought him	3	And so by the time the settlement was
4	to a podiatrist. And just turns out he had really	4	achieved in mid-'07, I want to say August but it could
5	long toenails and they needed to be cut.	5	be off on the date, he has been off medication for so
6	And another another time, you know, he	6	long that it was actually quite difficult to even have
7	complained about it hurting in his bum where they gave	7	him come to the office. So we were no longer grocery
8	him the injection. But and occasionally he would	8	shopping with him.
9	complain of stiffness. And that all made sense to me.	9	And so when that transition occurred, things
10	And we would talk to initially it was	10	had already more or less declined in terms of the
11	Dr. Thompson who was treating him here, and then it	11	quality of the relationship and amount of help we were
12	was Dr. Worrall. And we would talk to the doctors and	12	able to give him.
13	ask them, you know, if this had been looked at, if he	13	Q And would you say that Mr. Bigley trusted you
14	could be if he's on the right dosage of the	14	when you were his guardian?
15	medication, and there's some other medication that	15	A Yeah, I think so. I think that, you know,
16	would assist with the complaints.	16	we'd have our times when he'd be really angry and I'd
17	And the issue was always, you know, trying to	17	have to ask him to leave the office. And he didn't
18	keep things fairly simple so that Bill didn't have to	18	always appreciate, you know, what we were doing.
19	focus any more than necessary on the issue of	19	Sometimes if he had an interaction with
20	medication. Because I think it was an issue for him	20	somebody, like if we went to buy cigarettes and he was
21	pretty much all the time.	21	reminded he couldn't come into the store, because
22	You know, he he really didn't like the	22	there were those occasions when he would be told he
23	idea of being I mean, he didn't like the idea of	23	couldn't come to the store. So we'd go grocery
24	being mentally ill. He really didn't think that he	24	shopping, and then we'd go over to get cigarettes and
25	was mentally ill. And so to Bill, it was the	25	he'd have to wait outside or something.
	Page 31		Page 33
1	problems he had were problems that belonged to other	1	And if he made the mistake of coming in, and
2	people, not necessarily him.	2	he would get reminded, then that would serve to
3	Q And I don't understand what you meant when	3	escalate him and he'd get agitated around that.
4	you talked about a settlement was the reason why you	4	But in general, he would say, you know, this
5	stopped being Mr. Bigley's guardian.	5	is a good guy. He'd point to me and say, this is a
6	A Yeah. There I mean, OPA is appointed in a	6	good guy. You can trust him. And if he was having
7	guardianship matter.	7	problems with other people, that was typically how he
8	And Mr. Gottstein entered an appearance to	8	referred to me.
9	represent Mr. Bigley in the guardianship matter. And	9	And sometimes when we were grocery shopping,
10	he and he raised a number of complaints on behalf	10	if he couldn't, you know, make it through the whole
11	of Mr. Bigley.	11	store, sometimes we'd be picking something out on a
12	And one of those one of those points was	12	shelf and I'd be trying to focus him on the item, does
13	that I no longer be assigned as his guardian. And	13	he want this can of beans or that can of beans. If
14	there were some other ones, too.	14	somebody got too close and he started talking about
15	And ultimately, our office felt like we	15	he sometimes he would sometimes issue a comment to
16	should, you know, be receptive to looking at other	16	the other shoppers, like, what are you doing here,
17	ways of doing this, and so we agreed. We tried we	17	what are you looking at me for, you know, things like
18	had assigned the case to somebody else for a while and	18	that.
19	try these changes.	19	But you know, usually, you know, I could get
20	Q When you stopped being Mr. Bigley's guardian,	20	him redirected or ask him if he wanted to wait for me
21 22	how did he react?	21	outside. Usually he'd prefer to go out and smoke
22	A Well, he I mean, like I said earlier, I think hele a fairly dependent person. So where I used	22	actually. But I usually tried to get him to go

23

24

25

23 think he's a fairly dependent person. So where I used

to go out with him and grocery shop and do some ofthese other things, in December of 2006, when

knew what he had. And on occasion when he wasn't doing well at

through the whole routine of the shopping, so that he

	I dge 51		rage 50
1	all, I would just go do it. And I probably did that	1	API would cash it. He'd come here I think once a week
2	two or three times in that 16 months. Otherwise, he	2	and pick up \$50 in cash from the hospital.
3	was with me.	3	And then that came to a point where he was
4	Q And while you're not his guardian anymore, do	4	too disruptive here and so we tried doing it with the
5	you still have personal knowledge of him and see him	5	hotel. And that worked for a brief period of time,
6	around?	6	but then he damaged something at the hotel.
7	A Well, we see him yeah. All the public	7	And so things have just progressively
8	guardians are very familiar with Mr. Bigley. When	8	worsened to the point where, you know, not only could
9	he's not here or in jail, he spends a fair amount of	9	we not give him a check or provide him with funds or
10	time in our office. So he comes sometimes daily,	10	cigarettes or take him shopping, but we couldn't seem
11	sometimes several times a day.	11	to make those arrangements in the community.
12	And lately, that's been a problem because	12	You know, he doesn't have an outpatient
13	it's been impossible to work with him or to get him to	13	provider and he didn't have a hospital that could do
14	leave if there's nothing we can do to help him or	14	it. And the places where he was staying, he was
15	Q What does he come to your office for now?	15	getting kicked out of.
16	A Probably the same things. I mean, he needs	16	Q And you used to be able to take Mr. Bigley
17	housing. Like if he's when he was being released	17	grocery shopping, and now what can you interact
18	from corrections, in the beginning, they would just	18	with him? How can you interact with him now?
19	send him to our office. They'd taxi him to OPA.	19	A Well, actually, on rare once in a while,
20	And then, you know, we told them we would	20	if he's if he's been incarcerated for a long period
21	tell DOC where he's housed and that they should	21	of time or if he's been in the hospital a long period
22	instead just taxi him to where he has housing, since	22	of time, even without medication, there are brief
23	there really wasn't anything else we could do.	23	moments when like for the first couple hours of a
24	But he would come for housing. He would come	24	day, the first half a day, he will come to the office
25	for cigarettes. He would come for money. Jonathan's	25	and he will be appropriate. But it's a very short
	Page 35		Page 37
	Fage JJ		
1	been doing some creative things to try and make sure	1	window.
2	been doing some creative things to try and make sure that Mr. Bigley has access to funds. He would buy	2	window. And then pretty much and I only have my
2 3	been doing some creative things to try and make sure that Mr. Bigley has access to funds. He would buy coffee cards and put money on to coffee cards. And he	2 3	window. And then pretty much and I only have my layperson's theory about what caused it. But he
2 3 4	been doing some creative things to try and make sure that Mr. Bigley has access to funds. He would buy coffee cards and put money on to coffee cards. And he would pay the Paradise Inn, where Mr. Bigley's been	2 3 4	window. And then pretty much and I only have my layperson's theory about what caused it. But he escalates or becomes agitated or decompensates,
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	Page 38		Page 40
1	be there. And we could count on him being there.	1	his house every week, I once saw a wine bottle in his
2	But around late '07, he came to the office.	2	refrigerator, and it was two-thirds full. And if he
3	We asked him to leave. He was very angry. And I had	3	went to Chilkoots, my guess is he had very little to
4	to go out to a meeting, so I was trying to escort him	4	drink. But he listened to the music.
5	out of the office and into the elevator. And I was	5	And he'd come by the office the next day
6	going to walk him down and through the lobby, just to	6	claiming that, you know, this music's never been
7	help him outside before somebody had to call the	7	played before. It's never been heard before. And he
8	police.	8	would be real happy about it.
9	And he he stood in the elevator and he	9	So I think he in order for him to enjoy
10	didn't want me to get into the elevator, which I had	10	those things, I think he really needs to be able to
11	never seen him do. He's usually I mean, I consider	11	integrate in the community, and he needs to be able to
12	him to be pretty pretty easygoing and not not an	12	be living in his own home. He's never done well in
13	aggressive type. I mean verbally maybe, physically	13	assisted living. He needs to be able to be less
14	no.	14	fearful of other people, less easily agitated by other
15	And I mean, usually if something bad he	15	people.
16	likes to watch the news. If something bad happened in	16	He needs to be able to go through the
17	the news, he would come to the office and he would	17	routines fairly simple routines, getting on a bus,
18	say he'd be upset. He'd say, I didn't do it. I	18	getting off the bus, knowing which bus to get on.
19	didn't cause it. But I think in his own mind, he sort	19	And the premise for all those things, as far
20	of believed he was connected.	20	as I am concerned, is the medication. And as much as
21	Later on, you know, it was physically	21	he's I think at times verbalized a desire not to take
22	standing in people's way, verbally threatening, and	22	the medication or not to come to the hospital, that,
23	then getting more explicit with the threats. This	23	to me, clearly, even over the preceding years when we
24	building is going to blow up. I'm going to blow up	24	were just his conservator, was his best period.
25	this building. I'm going to blow you guys up. And	25	So I think I think that's a real
	Page 39		Page 41
1	once in the beginning he would come to me and say,	1	fundamental to his getting all the other things he
2	you need to get out of here, because I'm going to blow	2	needs is that first layer, is treat the worst of the
3	this place up. And you need to be you need to	3	psychiatric issues.
4	be you need to know that. And so and then, you	4	Q And do you think that if he were given a nice
5	know, later on it just was more explicit. He	5	house, someone to be a 24-hour care attendant, extra
6	didn't you know, he just was going to he was	6	funds, cigarettes, and coffee every day, that he would
7	going to blow the whole building up or something.	7	be able to function well in society without any other assistance with medication?
8 9	Q So now he would blow you up with it also	8	
10	A I think so, yeah.Q and not save you?	10	A No, I don't think so. But I mean, because I don't think those things are possible without some
11	A Yeah. I think I'm beyond that now.	11	treatment. I mean, I don't think you could find
12	Q You have known Mr. Bigley for several years.	12	somebody I don't think you could staff Mr. Bigley.
13	And what do you think his needs are right now?	13	I don't think you could shift staff Mr. Bigley. It'd
14	A Well, since all the times I've tried to	14	be a you'd it'd be impossible.
15			-
16	work with him, the the most important element of	15	O Do you mill he s capable of forming a miss
	work with him, the the most important element of me I believe in order for him to get what he really	15 16	Q Do you think he's capable of forming a trust relationship with anyone right now?
17	me I believe in order for him to get what he really	16	relationship with anyone right now?
17 18	me I believe in order for him to get what he really wants, which is to be free to go about the community,		relationship with anyone right now? A That's the problem. And I don't think I
	me I believe in order for him to get what he really wants, which is to be free to go about the community, to do the activities that he likes, which is to go	16 17	relationship with anyone right now? A That's the problem. And I don't think I mean and then without that ability to have any kind
18	me I believe in order for him to get what he really wants, which is to be free to go about the community,	16 17 18	relationship with anyone right now? A That's the problem. And I don't think I mean and then without that ability to have any kind of a relationship, the agitation is really high. I
18 19	me I believe in order for him to get what he really wants, which is to be free to go about the community, to do the activities that he likes, which is to go purchase cigarettes, to go buy coffee, maybe to take a	16 17 18 19	relationship with anyone right now? A That's the problem. And I don't think I mean and then without that ability to have any kind
18 19 20	me I believe in order for him to get what he really wants, which is to be free to go about the community, to do the activities that he likes, which is to go purchase cigarettes, to go buy coffee, maybe to take a bus ride.	16 17 18 19 20	relationship with anyone right now? A That's the problem. And I don't think I mean and then without that ability to have any kind of a relationship, the agitation is really high. I mean, his his threshold of accommodating everyday
18 19 20 21	me I believe in order for him to get what he really wants, which is to be free to go about the community, to do the activities that he likes, which is to go purchase cigarettes, to go buy coffee, maybe to take a bus ride. He used to like going to listen to music at	16 17 18 19 20 21	relationship with anyone right now? A That's the problem. And I don't think I mean and then without that ability to have any kind of a relationship, the agitation is really high. I mean, his his threshold of accommodating everyday events is really low.
18 19 20 21 22	 me I believe in order for him to get what he really wants, which is to be free to go about the community, to do the activities that he likes, which is to go purchase cigarettes, to go buy coffee, maybe to take a bus ride. He used to like going to listen to music at Chilkoots. And he is not a drinker. I think a lot of 	16 17 18 19 20 21 22	relationship with anyone right now? A That's the problem. And I don't think I mean and then without that ability to have any kind of a relationship, the agitation is really high. I mean, his his threshold of accommodating everyday events is really low. In other words, I don't think he could handle

	Page 42		Page 44
1	within three feet when he's picking a can of beans off	1	somewhere in history. And he has a good recollection
2	the shelf, that's a pretty low tolerance. But that's	2	of history. I mean, he was accurately telling me a
3	a medicated low tolerance.	3	story about a car he once owned that he really loved,
4	So if we're taking the medication away, he's	4	that he wanted to get back. It was a long time ago,
5	just hostile constantly. And so then when he engages	5	but so his ability to focus and process information
6	with somebody in the community who's not being nice to	6	and be around other people and tolerate things was
7	him, then it's sort of over the top.	7	much, much better.
8	Then I've seen him recently where he's in the	8	MS. DERRY: No further questions.
9	middle of the intersection at 6th and I, a very busy	9	THE COURT: Cross?
10	intersection, cars coming down I and turning on to	10	STEVEN YOUNG
11	6th, and cars coming across 6th. And here he is in	11	testified as follows on:
12	the middle of the intersection, just sort of, you	12	CROSS EXAMINATION
13	know, cursing at something up above his head. And	13	BY MR. GOTTSTEIN:
14	Q And how recently was that?	14	Q Have you read Robert Whitaker's affidavit?
15	A This was just, I don't know, a month ago.	15	A No.
16	And being unable to even yell at him to tell him to	16	Q Bob? No? And so you haven't read
17	get out of the street. And that's pretty unusual.	17	Dr. Jackson's affidavit either?
18	And that fits with these events that I'd	18	A No.
19	never seen from him. And it seems like some of what	19	Q So are you aware of the claim that
20	we've heard has happened, even here at API, has been	20	Mr. Bigley's deterioration was explained by increasing
21	new, things that I would guess the hospital's never	21	brain damage caused by the drugs?
22	seen.	22	A No.
23	Q You you've known Mr. Bigley for a long	23	Q So but if that was true, wouldn't then
24	time. Do you think he's happy in the last few months?	24	wouldn't that explain his
25	A I wouldn't say he's happy.	25	MS. POHLAND: Objection, foundation, calls
	D 10		
	Page 43		Page 45
1	Q Has he ever been happy?	1	Page 45 for speculation.
1 2	Q Has he ever been happy?A Well, he's had times when he I don't think	1 2	for speculation. THE COURT: Ask your question.
	Q Has he ever been happy? A Well, he's had times when he I don't think he's ever perfectly happy, no. But I think because		for speculation. THE COURT: Ask your question. BY MR. GOTTSTEIN:
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	Page 46		Page 48
1	medication, and then seeing his cooperation with the	1	assisted-living facilities don't allow people in them
2	program and seeing him do considerably better, I would	2	if they're not taking their prescribed medications?
3	have to really evaluate that information.	3	A There are some assisted-living homes that
4	Because I you know, I would look for	4	would would take people without medication, but
5	additional opinions, in other words. Even with a	5	there would have to be an absence of problems. In
6	claim like that, I think I would be looking for	6	other words, an absence of the symptoms that would
7	additional opinions.	7	or a severity of the symptoms that would, you know,
8	And I would ask myself whether the provider	8	cause them to have problems with other residents or
9	of the information knew him personally, saw him as a	9	with the staff. I don't think that Mr
10	patient, that kind of thing.	10	THE CLERK: Can I ask the witness to raise
11	Q But you haven't sought any any initial	11	his voice. He's starting to fade out.
12	A I didn't read those affidavits that you asked	12	THE WITNESS: I don't think that Mr. Bigley
13	me about. I have read information about the	13	could live in an assisted-living home without
14	medications Mr. Bigley takes and their side effects,	14	medication. I actually don't think the assisted
15	and I have talked with the doctors about side effects.	15	living is the most appropriate for Mr. Bigley.
16	And I have talked with the doctors about	16	BY MR. GOTTSTEIN:
17	the you know, the complaints Mr. Bigley	17	Q Okay. Are you aware that currently people
18	occasionally makes that I mentioned before. But I	18	that take these drugs long term now have a life
19	but I am not, you know, in a position to, you know,	19	expectancy of 25 years less than the general
20	make a determination about the value or the integrity	20	population?
21	of that kind of information.	21	A I am not
22	Q But I think you testified, didn't you, that	22	MS. POHLAND: Objection, calls for
23	you really tried to set up things so that he's	23	speculation.
24	required to take the medication	24	THE COURT: He's asking for your knowledge,
25	MS. POHLAND: Objection. Mischaracterization	25	not whether you agree with it or disagree with it or
	Page 47		Page 49
1	Page 47 of the witness testimony.	1	Page 49 whether you have the knowledge of that assertion.
1 2		1 2	
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1	world would stop because he's in the street.	1	effects. And I have spoken with these doctors about
2	So I don't think that he follows the same	2	the side effects and complained.
3	rules, and I don't think somebody would step out into	3	So my sense is really that although
4	traffic necessarily to save him.	4	Mr. Bigley may experience some dementia, although he
5	Q You would not have stopped and grabbed him if	5	may experience some of the muscle stiffness, he
6	he was in real danger?	6	really he doesn't appear to me at least to have
7	A I would like to think that I would make some	7	much in the way of side effects.
8	effort, but I don't think I would risk my life for it.	8	And he I should say he has some of the
9	I mean, Mr. Bigley at times is really hard to predict.	9	dyskinesia. I mean, he doesn't pour coffee as well as
10	And so you know, I mean, I think that's his greatest	10	he used to. He has some of the more common problems.
11	risk.	11	But I would also ask, especially Dr. Jackson
12	Q So is it is it your well, are you aware	12	if this is her opinion, that has she considered all
13	that Dr. Jackson has testified that if he's continued	13	these other things, like the heavy smoking and the
14	on forced to take medications, that they'll kill	14	heavy coffee drinking, you know, and their potential
15	him within five years?	15	risks.
16	MS. POHLAND: Objection, foundation. The	16	I mean, I really think that for us, you know,
17	witness has already testified that he's not familiar	17	as his guardian, we have to look at what the quality
18	with Dr. Jackson's previous testimony and has not read	18	of his life is, too. And at some point, we have to
19	Dr. Jackson's affidavit.	19	we have to be willing to entertain the possibility
20	MR. GOTTSTEIN: I will rephrase.	20	that quality of life may even be more important than
21	THE COURT: You can rephrase the question.	21	the quantity.
22	BY MR. GOTTSTEIN:	22	Q And you think that's your decision to make?
23	Q If if Mr. Bigley is required to take these	23	A Well, I think that in part it is, because
24	medications, and it will cause him to die within five	24	Mr. Bigley is incapacitated. So let's say that, you
25	years, don't you think that should be taken into	25	know, we could keep him alive for seven years in an
	Page 51		Page 53
1	consideration?	1	institution or we could keep him alive for five years
1 2	A Yes. I think that if if that information	1 2	institution or we could keep him alive for five years in the community. Then I think that, you know, our
	A Yes. I think that if if that information is accurate I mean, I think that information should		institution or we could keep him alive for five years in the community. Then I think that, you know, our job is to be a surrogate decision-maker, right? And
2 3 4	A Yes. I think that if if that information is accurate I mean, I think that information should be evaluated, certainly. And that's serious	2 3 4	institution or we could keep him alive for five years in the community. Then I think that, you know, our job is to be a surrogate decision-maker, right? And so, you know, we're supposed to focus first on what's
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	Page 54		Page 56
1	A Well, like like I mean, dementia is	1	Q But couldn't that couldn't that have
2	is like any other symptom, something to take into	2	been couldn't that be caused by increasing dementia
3	consideration.	3	or dysmentia?
4	And you know, I guess I would be looking for	4	A Well, my experience with dementia is people
5	studies or more information around this particular	5	get confused and sometimes frustrated.
6	etiology of dementia. It's one I'm unfamiliar with.	6	But, you know, you're asking the wrong person
7	I'm familiar with age-related dementia. I'm	7	first of all, because I am not a clinical person. But
8	familiar with dementia that's onset from substance	8	generally speaking, I would say most of the persons I
9	abuse. I'm familiar with dementia that's secondary to	9	know who have dementia, they get confused and
10	head injury. These things are fairly common in	10	sometimes frustrated.
11	guardianship cases.	11	But they don't have that sort of mood issue
12	I'm less familiar with dementia caused	12	going on. They don't have the you know, the
13	specifically by psychotropic medication, but would be	13	teariness, the sadness. That is sort of a
14	willing to evaluate it, you know, from a layman's	14	depression-related thing more than it is a
15	perspective, anyway.	15	dementia-related thing.
16	But I you know, knowing Mr. Bigley, you	16	Q Since we're on that period of time, I'm going
17	know, still and knowing dementia still, the the	17	to show you Exhibit G. It's been admitted.
18	ability to be stable in an environment, to be with	18	Is that is that an involuntary commitment
19	consistent and regular patterns is generally a benefit	19	petition signed and verified by William Worrall, MD?
20	to the person who's losing the ability to, you know,	20	A Yes.
21	evaluate things and think clearly and apply the	21	Q Okay. It's a little bit hard to see. But in
22	thinking in new circumstances, you know, such as a	22	the on the second page, kind of starting in the
23	person with dementia.	23	where it's handwritten, the second line, does that
24	Q But what if the drugs are causing increasing	24	say, not responding to Risperdal alone, refuses mood
25	problems with that?	25	stabilizer medications?
	Page 55		Page 57
1	A I would I would want to know, you know,	1	A The way I read it notion tramaing neurohotic
		-	A The way I read it, patient remains psychotic
2	how reliable those studies are and what their	2	and pressured speech and irritable, very delusional,
2 3	how reliable those studies are and what their predictions are.		
		2	and pressured speech and irritable, very delusional,
3	predictions are.	2 3	and pressured speech and irritable, very delusional, not responding to Risperdal alone. Refuses mood
3 4	predictions are. And I would certainly, you know, be in favor	2 3 4	and pressured speech and irritable, very delusional, not responding to Risperdal alone. Refuses mood stabilizer medication. Refuses assisted-living
3 4 5	predictions are. And I would certainly, you know, be in favor of Mr. Bigley being fully evaluated. But again, I	2 3 4 5	and pressured speech and irritable, very delusional, not responding to Risperdal alone. Refuses mood stabilizer medication. Refuses assisted-living placement due to impaired judgment for mental illness.
3 4 5 6	predictions are. And I would certainly, you know, be in favor of Mr. Bigley being fully evaluated. But again, I think that, you know, like every side effect related to medication, it should be taken into consideration against the need or the benefit for taking the	2 3 4 5 6	and pressured speech and irritable, very delusional, not responding to Risperdal alone. Refuses mood stabilizer medication. Refuses assisted-living placement due to impaired judgment for mental illness. Staff I can't read the rest. Maybe staff recording various delusional activities, paranoid conspiracies, is what it looks like.
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	Page 58		Page 60
1	page of that. It's what you have there. Is that a	1	of those times.
2	forced-medication petition?	2	But in any case, he got kicked out of his
3	THE COURT: Would you just give me the date	3	apartment. And he went into the hospital a couple of
4	of the the petition we're talking about?	4	times this fall, once in September. He had lost his
5	MR. GOTTSTEIN: It's Exhibit G.	5	apartment, so when he discharged, we thought, well,
6	THE COURT: Right. I just don't have	6	let's try to find him assisted living, and that'll
7	THE WITNESS: October 4, 2006 is the	7	give us some time to find him another apartment.
8	signature date by Dr. Worrall.	8	And we asked the hospital to also consider
9	BY MR. GOTTSTEIN:	9	the mood issues, because we thought maybe that was
10	Q Now, can you read well, does it say, down	10	partly what was causing his problem. You know,
11	at the bottom, the patient has refused mood stabilizer	11	maybe maybe his psychiatric issues were as stable
12	or second antipsychotic?	12	as they could be, but the mood, the irritability was
13	A Yes.	13	what was causing him the biggest upset. And so if
14	Q And that's consistent that's consistent	14	that could be helped in any way, you know, that would
15	with Mr. Bigley having being agreeing to take	15	be good.
16	the Risperdal Consta, but then refusing the addition	16	So but it was an oral medication, as I
17	of I think it was Depakote and Seroquel; is that	17	recall. And he didn't agree to take it. And so when
18	correct? It's a mood stabilizer and antipsychotic?	18	he was discharged to the assisted-living home, he
19	A Yeah. I think Depakote was one of them and	19	didn't agree to take it there, either. And so it
20	maybe it was Seroquel, yeah. I you're saying is	20	didn't take long for him to get before he was asked
21	this characteristic (indiscernible)?	21	to leave the assisted-living home because he was doing
22	Q No. I'm just saying is that is that your	22	the same thing there. He was he was, you know,
23	understanding of what happened?	23	accosting the staff there.
24	MS. POHLAND: Objection, foundation. The	24	And then he came back into the hospital. And
25	witness was not present.	25	I think he was that may have been about the time
	Page 59		
	rage 39		Page 61
1	THE COURT: Overruled.	1	that you met him, you know, within another month or so
1 2	THE COURT: Overruled. THE WITNESS: I just want to make sure I get	1 2	
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1	he's crying again, and all within a short period of	1	medication (indiscernible) substitutes, or in
2	time. That to me doesn't necessarily point to the	2	conjunction, that would have allowed (indiscernible).
3	fact that the Risperdal is not working, but that there	3	That is my understanding.
4	are different issues.	4	BY MR. GOTTSTEIN:
5	And I had talked to Dr. Thompson about these	5	Q Okay. And then isn't it true that Mr. Bigley
6	earlier. Because they the mood the mood	6	then balked at the addition of the mood stabilizer
7	lability was there a long time before, too. It just	7	Depakote and neuroleptic Seroquel?
8	didn't seem to be quite the issue. And maybe with	8	MS. POHLAND: Objection, foundation.
9	the with the psychiatric issues more or less	9	THE COURT: You may answer, if you know the
10	treated, there was a way to improve things still. So	10	answer.
11	that was kind of (indiscernible).	11	THE WITNESS: Yes, he refused to take it.
12	BY MR. GOTTSTEIN:	12	BY MR. GOTTSTEIN:
13	Q So but then rephrase it a little bit.	13	Q Okay.
14	Isn't it fair to say then that the Risperdal alone was	14	MS. POHLAND: Your Honor, if I may for a
15	no longer sufficient to keep him in the community?	15	moment, I (indiscernible) a photographer from the
16	A That was my question, yeah. That was my	16	Anchorage Daily News here.
17	question is, you know, if he's getting kicked out	17	API policy does not allow news
18	you know, and it had been a long time. But if the	18	(indiscernible), but I explained that we would have to
19	irritability got him kicked out and not some incident,	19	inform the court and let you make a decision. We
20	like not some disagreement for which he would be	20	thought that we also need to get permission from the
21	rationally upset, you know, then if there's something	21	Department of Health and Social Services.
22	else that could and should be done, you know.	22	THE COURT: We are in courtroom right now
23	And as his guardian, we wouldn't have wanted	23	(indiscernible) API (indiscernible). But that doesn't
24	to overlook the possibility that maybe it's time to	24	mean that this person this photographer can come in
25	refine his treatment to see if it could be improved.	25	here.
	Page 63		Page 65
1		-	
1	Q So if he was you testified I think that he	1	I'll let the person come in, but photography
2	was living relatively successful in the community	2	is a different question altogether. So if the news
3 4	from, what, about May of 2005 until	3 4	reporter is out there now
	A September.		MS. POHLAND: The news reporter is not. It's (indiscernible) photographer.
5 6	Q September of 2006; is that correct?A Uh-huh.	5 6	
7		-	THE COURT: If the photographer wants to
	Q Just say	7	follow the procedures about media I'm sorry,
8	A Yes.	8	photographing, then he or she can make the
9	Q And that at that point, the Risperdal Consta	9	application.
10	regime was no longer able to maintain that status;	10	But is it your understanding that person is
11	isn't that correct?	11	doing that, has made an application?
12	MS. POHLAND: Objection, asked and answered.	12	MS. POHLAND: I don't believe he did. He had
13	THE WITNESS: I still I don't agree with	13	a form that he'd like me to have (indiscernible).
14	the opinion.	14	THE COURT: The form the form should be
15	THE COURT: You want to get to the point?	15	submitted to me. So if that person has a form out
16	Are we is there something new coming? I mean, I'll	16	there, if it could be brought in, I'll deal with it.
17	let you (indiscernible), but (indiscernible) the	17	MS. POHLAND: He left.
18	question	18	UNIDENTIFIED SPEAKER: He left.
19	MR. GOTTSTEIN: Okay. I wasn't sure that he	19	MS. POHLAND: I'm sorry to interrupt. I just
20	had answered that question. He said it was working.	20	(indiscernible).
21	THE COURT: You can ask him to clarify. But	21	BY MR. GOTTSTEIN:
22	I understand his comments to be that yes, it appeared	22	Q Now, one of the things you testified to was
23			
	that Risperdal alone was not allowing him to live in	23	that during this Risperdal Consta regime, that he
24 25	that Risperdal alone was not allowing him to live in the community and that there needed to be some fine-tuning of the medication (indiscernible) other	23 24 25	that during this Risperdal Consta regime, that he didn't well, when Mr. Bigley would complain and say he didn't ever want to go back and take the Risperdal

	Page 66		Page 68
1	and then go, didn't he know that if he didn't, he	1	A Not so much. I mean, he was sometimes
2	would be forced to take it?	2	focused on sexual dysfunction, but he didn't relate it
3	A I don't believe so. I don't think I mean,	3	to the medication.
4	he wouldn't have been. He was you know, those	4	It was I mean, he actually, the bigger
5	release early release provisions expire, just like	5	complaint was that he he would always often come
6	any commitment. And so, you know, he would not I	6	into the office saying he needed to get laid. And
7	mean, he would have declined.	7	that's what the way he would refer to it. And you
8	And in fact, I believe that happened. If you	8	know, that's that was more the complaint than, you
9	look at the history of hospitalizations, if he stopped	9	know, sexual dysfunction.
10	taking the medication, we didn't do anything	10	Q Did he ever complain of what would be
11	immediately. We we waited until we felt like he	11	described as sedation symptoms?
12	was at risk, that he was he was endangering	12	A No. In fact, Mr. Bigley has sort of the
13	himself. And even we reluctantly filed.	13	opposite problem, as far as I could tell. He kind of
14	But we feel that as his guardian, our	14	gets jacked up on caffeine because he drinks coffee
15	obligation is to protect his welfare. And so when	15	from morning until night, and then he doesn't sleep.
16	he's at risk, if there's nobody else who is going to	16	So his complaint would be that he doesn't sleep at
17	file, then there have been times when I have filed	17	night.
18	these Title 47 petitions for him.	18	And then and then sometimes he would get
19	And of course, that's just a petition for his	19	to the point where he claimed he didn't need to sleep.
20	evaluation, and then he would be evaluated by the	20	And you know, he would relate it to being God and
21	hospital and and the hospital would take over from	21	that, you know, he's different different than
22	there.	22	everybody.
23	But no, I think that actually did occur a	23	Q When he would come in and to your office
24	couple of times throughout that 16-month period. But	24	and be, let's say, good, and then become angry during
25	I think they were very short hospitalizations. They	25	the course of, you know, your interaction, wasn't he
	Page 67		Page 69
	were used to get him back on course, and they worked		
1	were used to get min such on course, and mey worked	1	asking for something generally?
1 2	very well.	1 2	asking for something generally? A Oh, I don't know. Sometimes, yeah.
2	very well.	2	A Oh, I don't know. Sometimes, yeah.Sometimes not.You know, I mean, there are times when he
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2 3 4	very well. Q Now, did you testify that didn't you testify that some of the side effects the side	2 3 4	A Oh, I don't know. Sometimes, yeah.Sometimes not.You know, I mean, there are times when he
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	Page 70		Page 72
1	leaves him about \$10 a day spending money?	1	the things that he needed to do. It was money lost.
2	MS. POHLAND: Objection, relevance.	2	And so frankly, I thought often he was really
3	THE COURT: Where are we going? What's the	3	taken advantage of. I mean, he would spend more money
4	relevance?	4	than anyone I know would have on the same item.
5	MR. GOTTSTEIN: It's one of the things he	5	BY MR. GOTTSTEIN:
6	gets angry about is not having enough spending money,	6	Q But isn't it true that after under this
7	and also less-intrusive alternative, to get him more	7	arrangement, that after rent and after his food
8	spending money.	8	budget, whatever else is kind of budgeted for that,
9	THE COURT: I will allow it.	9	his spending money is about \$10 a day?
10	THE WITNESS: I don't remember exactly. I	10	A I don't know what it is per day. I think it
11	know that, you know, Mr. Bigley has approximately	11	was about \$50 a week when I was working with him. I
12	one let's see. What is it? Well, I can't remember	12	don't know if it went up or down. It would go up and
13	exactly. He has a certain amount of money that is	13	down depending upon his rent. That would take the
14	actually at the Medicaid needs standard. Mr. Bigley	14	biggest chunk of his income.
15	is a Medicaid recipient.	15	And so keeping him in a stable apartment, and
16	His Social Security flows into an irrevocable	16	especially, you know, if you could have the goal of
17	income trust to qualify him for Medicaid. Some money	17	getting him into some kind of subsidized apartment,
18	is resides in that trust, and then the amount	18	that would be the best of all worlds for him.
19	that the most amount that he can get, that Medicaid	19	Q And in fact, isn't that one of the goals of
20	allows, is transferred to a regular working account	20	the settlement agreement in the guardianship?
21	from which his rent gets paid, like a daily allowance	21	MS. POHLAND: Objection, relevance. There
22	or a weekly allowance would get paid, his groceries,	22	is no oh, I'm sorry. I thought you
23	his electric bill.	23	(indiscernible).
24	And then we'd use his income trust to buy	24	THE WITNESS: It's been so long since I've
25	cigarettes and pay vendors. And so we were trying to	25	read that, Mr. Gottstein, I don't remember. But I
	Page 71		Page 73
1	Page 71 maximize his his availability of income, if you	1	Page 73 think it's a reasonable goal. I think, you know,
1 2		1 2	-
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2 3	maximize his his availability of income, if you will by, you know, creative use of the trust and the Medicaid needs standard that he is allowed to get.	2 3	think it's a reasonable goal. I think, you know, getting him into subsidized housing would be an excellent goal.
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1	BY MR. GOTTSTEIN:	1	somebody stand beside him when he went store to store
2	Q And none of that's really available right now	2	to figure out what what caught his attention for
3	to him; is that correct?	3	the day.
4	A I don't know of it's available to him.	4	Q How does he get his clothes?
5	Q But if if the division or any other source	5	A Actually, mostly his mom, Rosalie (phonetic),
6	was found, such as perhaps a trust authority, to pay	6	goes to, like, Value Village and places and then drops
7	for housing that would remain available to him, don't	7	them by his apartment.
8	you think that would be helpful?	8	And then I think I think you've assisted
9	A Yes. Housing would be helpful, especially	9	him with some clothing from time to time since
10	housing he couldn't lose, if there is such a thing.	10	December of '06. But throughout the course of our
11	Q Do you think it would be helpful for him to	11	working with him, it's been his mother.
12	find to have housing where he's not really going to	12	And I and I've taken him shopping. You
13	bother the neighbors?	13	know, I've taken him to Wal-Mart and other places to
14	A I suppose that would be good. I mean, he	14	get clothes, too.
15	does bother neighbors. He is terribly intrusive to	15	Q Mr. Bigley is is an Alaska Native, isn't
16	other tenants in an apartment complex.	16	he?
17	MS. POHLAND: (Indiscernible), the State will	17	A Correct.
18	stipulate that it would be helpful if Mr. Bigley could	18	Q And as an Alaska Native, doesn't he have free
19	have some theoretical housing where it would be	19	medical services?
20	subsidized, he wouldn't be evicted, and he wouldn't	20	A He does.
21	bother neighbors. The State will stipulate to that.	21	Q So
22	But it will be helpful, if such housing ever existed.	22	A He does, and he I mean, even the Native
23	MR. GOTTSTEIN: Okay. Good.	23	Medical Center is a direct Medicaid biller. I mean,
24	BY MR. GOTTSTEIN:	24	the reality is it's really difficult to get free
25	Q Now, wouldn't it you talked about his	25	services. But as an Alaska Native, he is eligible for
	Page 75		$D_{2} \propto 27$
			Page 77
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1	Alaska Native, even though I think he (indiscernible).	1	THE COURT: Do you know if the reporter asked
2	He often refers to his skin color and things as being,	2	to have access to this proceeding?
3	like, white as snow, and all. And he he often is	3	MS. POHLAND: I do not know that.
4	derogatory towards Alaska Natives. And so he didn't	4	THE COURT: And you think Mr. Adler is the
5	want anything to do with ANMC. And so we just sort of	5	one who dealt with this?
6	let that go.	6	MS. POHLAND: He and I both went out and
7	I think that was actually part of the the	7	talked to him.
8	decision that was instrumental in going toward	8	THE COURT: I'd like to hear from Adler about
9	Medicaid.	9	what happened.
10	Q Now, isn't it true that in February of 2007,	10	MS. POHLAND: Okay. (Indiscernible.)
11	on early release, he was ordered to return because his	11	10:25:56
12	blood level of Depakote showed he wasn't taking the	12	(Off record.)
13	Depakote?	13	10:38:04
14	MS. POHLAND: Objection, relevance.	14	THE CLERK: Back on record.
15	THE WITNESS: I don't have any recollection,	15	MS. DERRY: I think she said back on record.
16	anyway.	16	Is that the volume button?
17	MR. GOTTSTEIN: I have no further questions.	17	UNIDENTIFIED SPEAKER: Are we back on record
18	THE COURT: Do you have redirect?	18	now?
19	MS. DERRY: No, Your Honor.	19	THE CLERK: Yes.
20	THE COURT: All right. Thank you. You may	20	THE COURT: All right. Let's Mr. Adler
21	be excused.	21	is it doctor or Mr. Adler?
22	(Witness excused.)	22	THE WITNESS: Ron Adler, mister.
23	THE COURT: We'll take a break. Who is next?	23	THE COURT: If you would stand and raise your
24	MS. DERRY: Adam Rutherford from the	24	right hand, I want to (indiscernible).
25	Department of Corrections, Your Honor.	25	(Oath administered.)
	Page 79		Page 81
1			
1	THE COURT: (Indiscernible) how long that	1	THE WITNESS: I do.
2	person will be, do you think, in direct?	2	THE COURT: You may be seated, please.
2 3	person will be, do you think, in direct? MS. DERRY: Half hour.	2 3	THE COURT: You may be seated, please. Would you state your name and spell both your
2 3 4	person will be, do you think, in direct? MS. DERRY: Half hour. THE COURT: And then after that?	2 3 4	THE COURT: You may be seated, please. Would you state your name and spell both your first and last name, please.
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 person will be, do you think, in direct? MS. DERRY: Half hour. THE COURT: And then after that? MS. DERRY: I (indiscernible), Your Honor. THE COURT: We'll recess, oh, I don't know, 25 till. Let's do one other thing. Explain to me what this photographer what happened, if you know, regarding the photographer coming up and being let back here or not. MS. POHLAND: I don't know that oh, Mr. Adler called me out to the lobby because the photographer was out there. And Mr. Adler explained that he can't have (indiscernible). And I helped him explain that if he asked the court, you would allow the reporter in. The reporter wasn't (indiscernible), and the photography was a different matter. THE COURT: So to your knowledge, has this reporter asked to come back here and was denied that? MS. POHLAND: No, we didn't deny him. 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	THE COURT: You may be seated, please. Would you state your name and spell both your first and last name, please. THE WITNESS: Ronald, R-O-N-A-L-D, Adler, A-D-L-E-R. THE COURT: Mr. Adler, the reason I am calling you as a witness is Ms. Pohland has described to me that there was a photographer out in the lobby who wanted access of some sort, and given the controversy about having hearings here in the facility, whether or not that constitutes an open courtroom. I want to find out what took place. Could you tell me your and maybe you're not the person to tell me this, but if there's someone else, let me know. Can you tell us what happened when the reporter or photographer showed up and what that person requested? THE WITNESS: Your Honor, the the photographer requested to come in and be present at

	Page 82		Page 84
1	photographs or make videos of any of our patient	1	that person is to be allowed access.
2	areas. That's been a long-standing policy at API.	2	I find it astonishing that API doesn't get
3	And I've I've requested to get the telephone number	3	it. I find it I found it astonishing last time
4	of the HIPAA compliance officer within the Department	4	when the Department of Law precluded a reporter from
5	of Law to see if we could make a reasonable	5	coming into an open courtroom. I am astonished that
6	accommodation. I would expect that I'll have an	6	it's happened again.
7	answer within an hour or two.	7	I am not criticizing the two assistant
8	THE COURT: Did this photographer request to	8	attorney generals on this. I don't understand that
9	come back into the courtroom?	9	you two have been involved.
10	THE WITNESS: Yes.	10	But API and the Department of Law have got to
11	THE COURT: And who who declined that	11	understand that if they are going to be allowed to
12	request?	12	have a facility within API, we deem it an open and
13	THE WITNESS: I did.	13	public courtroom, that means that neither the
14	THE COURT: (Indiscernible) follow-up	14	Department of Law nor API can unilaterally deny a
15	question?	15	member of the public, including a member of the media,
16	RONALD ADLER	16	into the courtroom facility.
17	testified as follows on:	17	I don't have any difficulty with API saying
18	CROSS EXAMINATION	18	while you travel from the lobby into the courtroom,
19	BY MS. POHLAND:	19	you cannot the greater API rules apply. That's
20	Q Mr. Adler, is it true that you informed the	20	perfectly reasonable.
21	photographer that	21	But the use of photographs in what is
22	MR. GOTTSTEIN: Objection, leading.	22	effectively use of photographs or other media with
23	THE COURT: Overruled. This is cross.	23	(indiscernible) public courtroom is governed by court
24	BY MS. POHLAND:	24	system rules, not API rules.
25	Q that you informed the photographer that he	25	Call your next witness.
	Page 83		Page 85
1	would have to check with our HIPAA compliance attorney	1	MS. DERRY: Thank you, Your Honor.
2	and then we would inform the court and request that	2	The state calls Adam Rutherford.
3	A Yes.	3	THE COURT: Oh, I'm sorry. I was waiting for
4	MS. POHLAND: No further questions.	4	somebody to appear, and I didn't
5	THE COURT: Do you have any questions?	5	Would you please stand and raise your right
6	MR. GOTTSTEIN: Your Honor, I had him on my	6	hand.
7	witness list. Can I just go ahead and ask just a	7	THE WITNESS: Yes, sir.
8	couple of questions now while he's	8	(Oath administered.)
9	THE COURT: (Indiscernible) ask him any	9	THE WITNESS: I do, sir.
10	questions on this particular topic.	10	THE COURT: You may be seated. And if you
11	MR. GOTTSTEIN: I have no questions on this	11	would state and spell your full name, please.
12	topic.	12	THE WITNESS: It's Adam Rutherford, A-D-A-M,
13	THE COURT: Any objection to Mr. Gottstein	13	Rutherford, R-U-T-H-E-R-F-O-R-D.
14	calling Mr. Adler out of order since he's here?	14	THE COURT: You may be seated.
15	MS. DERRY: I Your Honor, I would like to	15	ADAM RUTHERFORD
16	finish my case in chief with Mr. Adler.	16	called as a witness on behalf of the State, testified
17	THE COURT: All right. We'll do it in the	17	as follows on:
18	appropriate order.	18	DIRECT EXAMINATION
19	Thanks, Mr. Adler.	19	BY MS. DERRY:
20	THE WITNESS: May I be excused?	20	Q Mr. Rutherford, where do you work?
21	THE COURT: Yes, you may.	21	A I work for the Department of Corrections. I
22	(Witness excused.)	22	am a mental health clinician 2 in an acute treatment
23	THE COURT: In the future, the next time a	23	unit actually for the Department of Corrections.
24	reporter, member of the press, a photographer, a	24	Q And what does that mean?
25	member of the public seeks access to the courtroom,	25	A We treat severely and persistently mentally

	Page 86		Page 88
1	ill folks that aren't that are impaired and aren't	1	Q And I'm sorry, what is your unit called?
2	able to function in our general population. Very	2	A It's called Mike Mod actually is what it's
3	similar to API within the Department of Corrections.	3	called.
4	Q And people would go to jail and then you'd	4	Q And what does that does Mike stand for
5	see them there?	5	something?
6	A Yes, ma'am. Yes, ma'am.	6	A You know, it's actually just a military term
7	Q Do you actually work for the jail?	7	to describe M mod, so it's just Mike Mod. And that's
8	A I actually work for the Department of	8	just the name that's kind of stuck with it. But it is
9	Corrections.	9	designated as a mental health treatment unit.
10	Q And so you don't see inmates or patients	10	Q Okay. And Mike, meaning the phonetic letter,
11	unless they go to the Department of Corrections?	11	mike, of the alphabet?
12	A Correct.	12	A Yes.
13	Q So they had some kind of contact with the	13	Q So it would be like Mike Mod?
14	police or been arrested?	14	A Yes, ma'am.
15	A Yes, ma'am.	15	Q And you say that usually Mr. Bigley arrives
16	Q Usually arrested?	16	after having trespassed?
17	A Always arrested. Always arrested.	17	A Yes, ma'am.
18	Q Have you ever had contact with Mr. Bigley at	18	Q And goes directly back into your unit?
19	the Department of Corrections?	19	A Yes, ma'am. He is booked in on our east
20	A Yes, ma'am. Actually, probably more contact	20	side, and then once he is booked in, he directly comes
21	with Mr. Bigley than many of the individuals that we	21	to us, yes, ma'am.
22	actually deal with (indiscernible) institution.	22	Q And what happens once he comes to you?
23	Q And under what circumstances do you have	23	A Generally speaking, he is placed in a cell
24	contact with Mr. Bigley?	24	for observation, just so we can just assess what his
25	A Generally when Mr. Bigley is arrested, he	25	mental status his current mental status is. We do
	Page 87		Page 89
			1490 09
1	doesn't go into our open population. He comes	1	a general medical review on intake and a general
1 2	doesn't go into our open population. He comes directly to our mental health unit.	1 2	
	directly to our mental health unit. So over the past year, I've had contact with		a general medical review on intake and a general mental status exam, as well. Q And how does he generally present to you?
2	directly to our mental health unit. So over the past year, I've had contact with him I think he's been arrested approximately 12	2 3 4	a general medical review on intake and a general mental status exam, as well.Q And how does he generally present to you?A You know, it really varies. It depends on
2 3	directly to our mental health unit. So over the past year, I've had contact with him I think he's been arrested approximately 12 times. So each one of those admissions, I have	2 3	a general medical review on intake and a general mental status exam, as well.Q And how does he generally present to you?A You know, it really varies. It depends on the length of time since he's been incarcerated or
2 3 4	directly to our mental health unit. So over the past year, I've had contact with him I think he's been arrested approximately 12 times. So each one of those admissions, I have actually been working with Mr. Bigley as his primary	2 3 4 5 6	 a general medical review on intake and a general mental status exam, as well. Q And how does he generally present to you? A You know, it really varies. It depends on the length of time since he's been incarcerated or received medication. So generally speaking, he comes
2 3 4 5	directly to our mental health unit. So over the past year, I've had contact with him I think he's been arrested approximately 12 times. So each one of those admissions, I have actually been working with Mr. Bigley as his primary mental health clinician.	2 3 4 5 6 7	 a general medical review on intake and a general mental status exam, as well. Q And how does he generally present to you? A You know, it really varies. It depends on the length of time since he's been incarcerated or received medication. So generally speaking, he comes in very agitated.
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2 3 4 5 6 7 8 9	 directly to our mental health unit. So over the past year, I've had contact with him I think he's been arrested approximately 12 times. So each one of those admissions, I have actually been working with Mr. Bigley as his primary mental health clinician. Q And I'm sorry, you said that he's been what was the what did you just say about 12 times? 	2 3 4 5 6 7 8 9	a general medical review on intake and a general mental status exam, as well. Q And how does he generally present to you? A You know, it really varies. It depends on the length of time since he's been incarcerated or received medication. So generally speaking, he comes in very agitated. MR. GOTTSTEIN: Objection THE WITNESS: Very irritated.
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2 3 4 5 6 7 8 9 10 11 12 13 14	 directly to our mental health unit. So over the past year, I've had contact with him I think he's been arrested approximately 12 times. So each one of those admissions, I have actually been working with Mr. Bigley as his primary mental health clinician. Q And I'm sorry, you said that he's been what was the what did you just say about 12 times? A Within the since the beginning of this year, actually since 2008, Mr. Bigley has been arrested on 12 separate occasions and admitted to our unit on 12 separate occasions. Q And when you say this year, you mean 2008? 	2 3 4 5 6 7 8 9 10 11 12 13 14	a general medical review on intake and a general mental status exam, as well. Q And how does he generally present to you? A You know, it really varies. It depends on the length of time since he's been incarcerated or received medication. So generally speaking, he comes in very agitated. MR. GOTTSTEIN: Objection THE WITNESS: Very irritated. MR. GOTTSTEIN: hearsay. THE COURT: I take it you're the are you the evaluator? THE WITNESS: Yes, sir. Yes, sir. THE COURT: Overruled.
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	 directly to our mental health unit. So over the past year, I've had contact with him I think he's been arrested approximately 12 times. So each one of those admissions, I have actually been working with Mr. Bigley as his primary mental health clinician. Q And I'm sorry, you said that he's been what was the what did you just say about 12 times? A Within the since the beginning of this year, actually since 2008, Mr. Bigley has been arrested on 12 separate occasions and admitted to our unit on 12 separate occasions. Q And when you say this year, you mean 2008? A Yes, ma'am. Yes, ma'am. Starting from January 2008. 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	a general medical review on intake and a general mental status exam, as well. Q And how does he generally present to you? A You know, it really varies. It depends on the length of time since he's been incarcerated or received medication. So generally speaking, he comes in very agitated. MR. GOTTSTEIN: Objection THE WITNESS: Very irritated. MR. GOTTSTEIN: hearsay. THE COURT: I take it you're the are you the evaluator? THE WITNESS: Yes, sir. Yes, sir. THE COURT: Overruled. THE WITNESS: Very irate at times, threatening folks, very delusional, very, very poor
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	 directly to our mental health unit. So over the past year, I've had contact with him I think he's been arrested approximately 12 times. So each one of those admissions, I have actually been working with Mr. Bigley as his primary mental health clinician. Q And I'm sorry, you said that he's been what was the what did you just say about 12 times? A Within the since the beginning of this year, actually since 2008, Mr. Bigley has been arrested on 12 separate occasions and admitted to our unit on 12 separate occasions. Q And when you say this year, you mean 2008? A Yes, ma'am. Yes, ma'am. Starting from January 2008. Q And do you know the circumstances of his 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	a general medical review on intake and a general mental status exam, as well. Q And how does he generally present to you? A You know, it really varies. It depends on the length of time since he's been incarcerated or received medication. So generally speaking, he comes in very agitated. MR. GOTTSTEIN: Objection THE WITNESS: Very irritated. MR. GOTTSTEIN: hearsay. THE COURT: I take it you're the are you the evaluator? THE WITNESS: Yes, sir. Yes, sir. THE COURT: Overruled. THE WITNESS: Very irate at times, threatening folks, very delusional, very, very poor condition for the most part, as far as his mental status is.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	 directly to our mental health unit. So over the past year, I've had contact with him I think he's been arrested approximately 12 times. So each one of those admissions, I have actually been working with Mr. Bigley as his primary mental health clinician. Q And I'm sorry, you said that he's been what was the what did you just say about 12 times? A Within the since the beginning of this year, actually since 2008, Mr. Bigley has been arrested on 12 separate occasions and admitted to our unit on 12 separate occasions. Q And when you say this year, you mean 2008? A Yes, ma'am. Yes, ma'am. Starting from January 2008. Q And do you know the circumstances of his arrest? A Generally speaking, they're usually trespass 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	a general medical review on intake and a general mental status exam, as well. Q And how does he generally present to you? A You know, it really varies. It depends on the length of time since he's been incarcerated or received medication. So generally speaking, he comes in very agitated. MR. GOTTSTEIN: Objection THE WITNESS: Very irritated. MR. GOTTSTEIN: hearsay. THE COURT: I take it you're the are you the evaluator? THE WITNESS: Yes, sir. Yes, sir. THE COURT: Overruled. THE WITNESS: Very irate at times, threatening folks, very delusional, very, very poor condition for the most part, as far as his mental status is. BY MS. DERRY:
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	 directly to our mental health unit. So over the past year, I've had contact with him I think he's been arrested approximately 12 times. So each one of those admissions, I have actually been working with Mr. Bigley as his primary mental health clinician. Q And I'm sorry, you said that he's been what was the what did you just say about 12 times? A Within the since the beginning of this year, actually since 2008, Mr. Bigley has been arrested on 12 separate occasions and admitted to our unit on 12 separate occasions. Q And when you say this year, you mean 2008? A Yes, ma'am. Yes, ma'am. Starting from January 2008. Q And do you know the circumstances of his arrest? A Generally speaking, they're usually trespass charges that Mr. Bigley is brought in on. I don't 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	a general medical review on intake and a general mental status exam, as well. Q And how does he generally present to you? A You know, it really varies. It depends on the length of time since he's been incarcerated or received medication. So generally speaking, he comes in very agitated. MR. GOTTSTEIN: Objection THE WITNESS: Very irritated. MR. GOTTSTEIN: hearsay. THE COURT: I take it you're the are you the evaluator? THE WITNESS: Yes, sir. Yes, sir. THE WITNESS: Yes, sir. Yes, sir. THE WITNESS: Very irate at times, threatening folks, very delusional, very, very poor condition for the most part, as far as his mental status is. BY MS. DERRY: Q And you said that his mental and physical
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 directly to our mental health unit. So over the past year, I've had contact with him I think he's been arrested approximately 12 times. So each one of those admissions, I have actually been working with Mr. Bigley as his primary mental health clinician. Q And I'm sorry, you said that he's been what was the what did you just say about 12 times? A Within the since the beginning of this year, actually since 2008, Mr. Bigley has been arrested on 12 separate occasions and admitted to our unit on 12 separate occasions. Q And when you say this year, you mean 2008? A Yes, ma'am. Yes, ma'am. Starting from January 2008. Q And do you know the circumstances of his arrest? A Generally speaking, they're usually trespass charges that Mr. Bigley is brought in on. I don't know exact details, but every one of them 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 a general medical review on intake and a general mental status exam, as well. Q And how does he generally present to you? A You know, it really varies. It depends on the length of time since he's been incarcerated or received medication. So generally speaking, he comes in very agitated. MR. GOTTSTEIN: Objection THE WITNESS: Very irritated. MR. GOTTSTEIN: hearsay. THE COURT: I take it you're the are you the evaluator? THE WITNESS: Yes, sir. Yes, sir. THE WITNESS: Very irate at times, threatening folks, very delusional, very, very poor condition for the most part, as far as his mental status is. BY MS. DERRY: Q And you said that his mental and physical status depends on whether or not he's been in jail
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	Page 90		Page 92
1	status improves. The longer that we see him that he's	1	Q And is it difficult for the staff to deal
2	been out of jail, the more decompensated his mental	2	with Mr. Bigley?
3	status is upon returning to jail.	3	A When Mr. Bigley comes in, he is very, very
4	Q And why does he take medications when he's in	4	irate, very agitated. Because part of his delusional
5	jail?	5	beliefs is that he is a secret agent and that he can
6	A We have a process that we go through in	6	show his picture at any time and be released from any
7	reviewing folks and looking at need for medications.	7	correctional facility or any type of facility that he
8	And when we look at that need for	8	is detained at. He is extremely agitated. He doesn't
9	medications, we assess individuals' risks for harming	9	want to have anything to do with us whatsoever, making
10	themselves, harming others, or whether or not they're	10	threats, even to kill and harm the staff that are
11	gravely disabled.	11	actually trying to help him there. So he is difficult
12	And generally speaking, I looked back, and	12	initially to engage, yes, ma'am.
13	the last 12 times that Mr. Bigley's been incarcerated,	13	Q And did the staff ever have to take any
14	ten of those times he's met criteria for emergency	14	advanced measures in order to contain Mr. Bigley?
15	medications, and three of those times, he's actually	15	A Unfortunately. Within our system, of course,
16	met criteria for what we call involuntary medications.	16	we always use the least-restrictive means. But at
17	Q What's the difference between emergency and	17	times, Mr. Bigley is so out of control, he's hitting,
18	involuntary?	18	kicking windows, to the point that he's not able to
19	A Emergency medications is a three-day window	19	redirect, and unfortunately does have to be restrained
20	that we have that's initiated prior to the involuntary	20	within our institution, yes, ma'am.
21	medication hearing process that occurs. So that at	21	Q And when you say "restrained," does that mean
22	that point, if Mr for example Mr. Bigley may be	22	handcuffed or does that mean put in a cell?
23	doing something that is perceived harmful to himself	23	A You know, a variety of different things.
24	or harmful to others, or if in general he is not he	24	When he's pounding and hitting and isn't responding to
25	(indiscernible) gravely disabled, the Department of	25	staff requests or officer requests, unfortunately,
	Page 91		Page 93
1		1	
1	Corrections has a policy that states that medications	1	that means he is going to be restrained to the wall
2	can be administered three days three working days	2	and in an ankle restraint actually to keep him away
3	prior to an actual hearing for involuntary medications.	3 4	from the glass itself and to keep him away from things
4		5	that he can hit and bang on, yes, ma'am.
5	Q Okay. And when he when he comes to jail, he goes to a cell by himself?	6	Q And you have observed Mr. Bigley when he's been restrained by an ankle restraint?
6 7	A Yes, ma'am. Mr. Bigley can't be out in our	7	A Yes, ma'am, unfortunately so.
8	general population, unfortunately. He his general	8	Q Will you please describe it to me, what
9	demeanor, his general his mental status basically,	9	happens to him and what he looks like?
10	he's threatening folks, he's spitting at folks, he's	10	A You know, it's really a it's not really a
11	throwing food.	11	clinical term, but really just a pitiful situation to
12	In general, when he comes into our	12	see this frail gentleman that is basically skeletal
13	institution, very delusional, doesn't believe that he	13	that's in there pulling on the restraint saying that
14	belongs in jail, thinking that people are trying to	14	he doesn't deserve to be there, he doesn't belong
15	harm him and hurt him there in jail.	15	there to begin with.
16	So we do have to exclude him from our open	16	And in his delusional beliefs, he truly
17	population folks, even within our mental health unit,	17	doesn't believe he should be incarcerated whatsoever,
18	because of the risk of just harm for Mr. Bigley or	18	yelling, screaming, cursing, begging and pleading at
19	possibly harm to someone else.	19	the same time to be released and taken out, but not
20	On a couple different occasions, Mr. Bigley	20	able to control himself at all. So it's really a
20	has attempted to spit at other at staff members and	21	truly a sad situation to observe.
	has anompted to spit at other – at starr members and		-
2.2		22	() When he's restrained what hannens to his
22 23	spit at other inmates. And just for Mr. Bigley's	22 23	Q When he's restrained, what happens to his mental status?
23	spit at other inmates. And just for Mr. Bigley's safety mainly, we seclude him in a cell just for to	23	mental status?
	spit at other inmates. And just for Mr. Bigley's		

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1	content just increases and ramps up that much more.	1	delusional content, it just keeps expanding and to
2	And it ranges from everything from knowing President	2	include different individuals each time he comes in,
3	Bush and President Bush is going to have all of our	3	and different conspiracies, thinking that he's Al
4	jobs and have us fired, to knowing Lisa Murkowski and	4	Pacino, thinking that he's a movie star, thinking that
5	having us fired, and Sarah Palin and having us fired,	5	he's killed hundreds and hundreds of people.
6	and to the point that he you know, he says all	6	Those are things that Mr. Bigley, when I
7	kinds of things that are threatening to staff,	7	first had contact with him, didn't talk about. He
8	threatening to his peers. That once he gets off,	8	didn't talk about killing people or or the number
9	he'll kill us all, he'll cut our heads off, all kinds	9	of people that he had killed. But that is something
10	of gruesome, vicious things statements that he	10	that has just recently, within the past probably three
11	makes when he gets agitated.	11	or four admissions, that's really stuck out is that he
12	Q And what you observe and the actions that you	12	talks more and more about gruesome acts that he's
13	have taken against well, toward Mr. Bigley, those	13	committed, things that he's done.
14	are appropriate actions as per your policy for the	14	Talks about splitting people's heads open and
15	Department of Corrections?	15	seeing their brains, and just gruesome acts that prior
16	A Yes, ma'am.	16	to that, I haven't heard Mr. Bigley talk about before,
17	Q And you personally don't operate outside of	17	which is really sad.
18	your policies?	18	Q In your opinion, and in your clinical
19	A No, ma'am. No, ma'am.	19	opinion, what are what alternatives are available
20	Q And you say that you know that in the last	20	to Mr. Bigley at this time?
21	year, that Mr. Bigley has had at least 12 contacts	21	A What I would love to see is I would love to
22	with you at the Department of Corrections. But do you	22	see Mr. Bigley taking his medications. Because when
23	know of Mr. Bigley prior to this last year, 2008?	23	Mr. Bigley takes his medications, there is a drastic
24	A You know, no, ma'am. Just hearsay from	24	change in his mood. He is a lot calmer. He is able
25	working in the community down there. I never had an	25	to rest. He's able to he doesn't appear as
	Page 95		Page 97
	Page 95		Page 97
1	opportunity to work with Mr. Bigley.	1	tormented as when he's not on medications. So I would
2	Q And in this last year, since January to the	2	love to see him medication compliant, with some
2 3	Q And in this last year, since January to the present, what would you say Mr how would you say	2 3	love to see him medication compliant, with some supported case management services in the community.
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	Page 98		Page 100
1	Q Do you think that life without without	1	time.
2	medication is possible for Mr. Bigley?	2	The longest that we've had Mr. Bigley is 22
3	A You know, it's possible. But it's not I	3	days, and that was probably the best that I've ever
4	guess you only look at the quality of life that	4	seen Mr. Bigley do. He was willing to take his
5	Mr. Bigley will live.	5	medications orally. We were actually starting to
6	You know, I see Mr. Bigley when he comes into	6	bring him out into the milieu.
7	our institution, tormented thought, delusional	7	He would sit down and have a decent
8	content, ranting, raving, can't sleep because of the	8	conversation. He was able to sleep and eat. He was
9	racing thoughts that are going through his mind.	9	able to take care of his personal hygiene. You know,
10	And then I see him get on medication, and I	10	much, much more improved. You know, it's it's just
11	see the man able to rest, I see the man able to eat	11	amazing. His mood is much more even keel. He's not
12	meals and not be afraid that we're poisoning him.	12	threatening people. He's, you know, actually a
13	So you know, it's possible, but the quality	13	pleasant person to engage. He'll sit down on the
14	of life that he lives, I don't think any of us would	14	couch and have a cup of juice or water with you and
15	want to see anyone, any family member or anybody, live	15	talk about his mother. He'll talk about Anchorage.
16	that quality of life where you're you feel like	16	He'll talk about a more appears like things that he
17	everyone's out to get you, out to harm you.	17	actually enjoys to do, like having a cup of coffee and
18	And you know, we don't have a crystal ball,	18	smoking a cigarette and looking forward to those
19	but just given the Mr. Bigley's mental status when	19	things.
20	he comes into our institution, we all know that	20	Whereas when he's off of those medications,
21	Anchorage is becoming a more and more dangerous place	21	it's almost a delusional ranting and rave that you
22	to be. And if he were to make some of those	22	hear from Mr. Bigley. Please hear me. Even on
23	delusional statements or threaten someone or spit at	23	medications, there is delusional content, but it's not
24	someone in the community, we never know what might	24	as apparent as when he's off medication.
25	happen with him. I mean, it's just kind of sad to	25	MS. DERRY: And I do have one follow-up
	Page 99		5 101
	rage yy		Page 101
1	say.	1	question after what he just said?
1 2	say. And unfortunately, Mr. Bigley does live a big	1 2	
	say.		question after what he just said?BY MS. DERRY:Q You said that in that 22 days, he took oral
2	say. And unfortunately, Mr. Bigley does live a big	2	question after what he just said? BY MS. DERRY:
2 3	say. And unfortunately, Mr. Bigley does live a big portion of his life out on the out on the streets,	2 3	question after what he just said?BY MS. DERRY:Q You said that in that 22 days, he took oral
2 3 4	say. And unfortunately, Mr. Bigley does live a big portion of his life out on the out on the streets, and could potentially be harmful for him.	2 3 4	<pre>question after what he just said? BY MS. DERRY: Q You said that in that 22 days, he took oral medication?</pre>
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	Page 102		Page 104
1	Q Right. But you've observed him here, right?	1	For example, even the spitting behaviors,
2	How would you describe his demeanor now, in	2	that is considered an assaultive behavior, and at that
3	terms of what you would expect being on meds or not?	3	point could be riskful or harmful to someone else or
4	A You know, I'd really have to sit down and	4	even harmful to Mr. Bigley if he were to spit at
5	talk with him before I would be able to give you a	5	another inmate.
6	description of his demeanor.	6	The beating and banging, as frail as
7	I know that based on observations, that he's	7	Mr. Bigley is, and just unwilling to redirect or
8	had to have been redirected a couple of different	8	unable to redirect and control himself at that point
9	times, but he isn't as agitated as he generally	9	could cause some serious harm to himself.
10	presents when he comes in to jail, you're correct,	10	So we're looking at if we don't intervene at
11	sir.	11	that point, that something is going to imminently
12	Q So so you wouldn't describe him right now	12	happen with Mr. Bigley.
13	as being all rant and rave?	13	Q Would you say that the amount of harm needs
14	A No, sir. But at the same time, I'm observing	14	to be life threatening?
15	mumbling under his breath. And clearly there's	15	A Well, when we're looking at not
16	some some thoughts that are going there through his	16	necessarily. When we're looking at harm to self,
17	head. I'm not really exactly without sitting down	17	we're looking at anything that could could
18	and interviewing him, I couldn't really tell you what	18	potentially be life threatening, yes, sir.
19	his mental status is at this point.	19	But at the same time, we're also looking at,
20	Q Now, didn't you testify that Mike Mod is kind	20	you know, Mr. Bigley's overall welfare and well-being.
21	of like API in Corrections?	21	Q If but if if you felt his behavior was
22	MS. POHLAND: Objection, mischaracterization	22	life threatening, you would give him emergency
23	of the witness testimony.	23	medications; is that correct?
24	THE COURT: Go ahead. You can answer the	24	A Oh, without a doubt, yes, sir.
25	question.	25	Q Okay. And if you would, would you give him
	-		
	Page 103		Page 105
1	THE WITNESS: It is an acute treatment	1	emergency medication if you if it was determined or
2	facility, yes, sir.	2	felt that there was risk of serious injury to someone
3	Of course, within the Department of	3	else or
4	Corrections, there are a lot more restrictions because	4	MS. POHLAND: Objection, asked and answered.
5	we are dealing with folks that are convicted of	5	THE COURT: Overruled. (Indiscernible.)
6	crimes, yes, sir.	6	THE WITNESS: I'm sorry; could you repeat it,
7	BY MR. GOTTSTEIN:	7	sir? I'm sorry.
8	Q So would the cost for care in Mike Mod if	8	BY MR. GOTTSTEIN:
9	you know, would it be about the same as API?	9	Q Would you would you and I'm talking
10	A I don't	10	about, you know, the procedures there give him
11	MS. POHLAND: Objection, relevance and	11	emergency medication if you felt if you felt his
12	foundation.	12	behavior was would cause serious injury to himself
13	THE WITNESS: I don't know.	13	or others?
14	THE COURT: If you don't know, you don't	14	A Sure. That's that is the process, yes,
15	know.	15	sir.
16	BY MR. GOTTSTEIN:	16	Q Okay. And then can you tell me what what
17	Q Now, you talked about for emergency meds,	17	sorts so you consider spitting in that category?
18	is it correct that he's given emergency meds when he's	18	A I think along with other behaviors that were
19	considered a danger to himself or others?	19	observed, as well. I mean, at the time, he's
	•		
20	A That is correct.	20	threatening to cut people's heads off and also cut
20 21	A That is correct.Q Okay. Now, what level of danger? Is there	21	them apart and look inside their brains.
20 21 22	A That is correct. Q Okay. Now, what level of danger? Is there some criteria?	21 22	them apart and look inside their brains. So it's really in context with the delusional
20 21 22 23	A That is correct.Q Okay. Now, what level of danger? Is there some criteria?A Yes, sir. When we're looking at that, and	21 22 23	them apart and look inside their brains. So it's really in context with the delusional content, as well, and to the point that he's appearing
20 21 22	A That is correct. Q Okay. Now, what level of danger? Is there some criteria?	21 22	them apart and look inside their brains. So it's really in context with the delusional

	Page 106		Page 108
1	That's not an actual court hearing, is it?	1	especially when we've seen that medications do help
2	A It's actually a hearing that happens within	2	Mr. Bigley.
3	the Department of Corrections itself, so no, sir.	3	Q In your opinion, do you feel that without
4	Q Okay. Now, isn't it true that at least a	4	medications, Mr. Bigley can stay out of jail?
5	couple of times this year, Mr. Bigley hasn't been	5	A No, ma'am. I think it's obvious. You
6	given drugs while in Corrections?	6	look I had a chance to look back through the
7	A There was two times, yes, sir. And that was	7	records. Up until 2007, Mr. Bigley, one or two times
8	because he was in and out so quickly. The court	8	he was involved with incarceration. And this year,
9	system released him so quickly that those procedures	9	he's had 12 incidents.
10	weren't initiated.	10	So it's not likely, if Mr. Bigley doesn't
11	MR. GOTTSTEIN: I have no further questions.	11	receive medications and doesn't stay on medications,
12	THE COURT: Redirect?	12	that he's going to stay out of jail, and it's really
13	MS. DERRY: Yes, quickly, Your Honor.	13	sad.
14	ADAM RUTHERFORD	14	Q Do you think that there's a light bulb that
15	testified as follows on:	15	can go off in Mr. Bigley's head that says, oh, I'm
16	REDIRECT EXAMINATION	16	coming to jail because I'm trespassing, and that he
17	BY MS. DERRY:	17	can stop?
18	Q Mr. Rutherford, does Mr. Bigley tend to have	18	A No, no. He's you know, when he comes in,
19	a better mental status after he's been locked up for a	19	his mental status, he is not aware. He thinks for
20	while?	20	example, he gets arrested for trespassing.
21	A You know, that's really a difficult question.	21	THE WITNESS: Actually, I think,
22	Because any time you take someone that's truly	22	Mr. Gottstein, he's been arrested from your office.
23	mentally ill and they're incarcerated, I don't think	23	He thinks he's truly going there to see his
24	it's healthy for them to spend a long time	24	attorney and actually have visits with him, and he
25	incarcerated.	25	truly trusts that attorney and believes that he can go
	Page 107		Page 109
1	But for Mr. Bigley, when he gets on	1	to that office at any time and see them.
1 2	medication, yes, ma'am, his mental status does	1 2	to that office at any time and see them. He's also been arrested for going to the
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	Page 110		Page 112
1	presenting not being incarcerated.	1	THE WITNESS: Could you ask the question
2	MR. GOTTSTEIN: Your Honor, I'll stipulate	2	again? I'm sorry.
3	that it'd be better for him not to be there.	3	MR. GOTTSTEIN: I'll withdraw the question.
4	MS. DERRY: (Indiscernible.)	4	BY MR. GOTTSTEIN:
5	MR. GOTTSTEIN: All right.	5	Q Now, didn't you testify that he won't stay
6	MS. DERRY: And I'm done questioning, Your	6	out of jail without the medications, that that's
7	Honor. Thank you.	7	(indiscernible)?
8	THE COURT: Recross?	8	A Again, that's we don't have a crystal
9	ADAM RUTHERFORD	9	ball, but that's just kind of my belief and the
10	testified as follows on:	10	pattern that we've seen over the last year, yes, sir.
11	RECROSS EXAMINATION	11	Q But isn't it true that he's also been
12	BY MR. GOTTSTEIN:	12	arrested a number of times when he was on medication?
13	Q Don't you think Mr. Bigley should be allowed	13	A I'm not quite sure, sir. I've only been
14	to make a decision whether he should be in the	14	working with Mr. Bigley within the corrections system
15	hospital without drugs or out of the hospital with	15	for a year, so
16	drugs?	16	MR. GOTTSTEIN: No further questions.
17	A I'm a huge advocate for folks and individuals	17	THE COURT: (Indiscernible.) Thank you. You
18	suffering from mental illness making choices. But at	18	may be excused.
19	some point at some point you have to ethically	19	(Witness excused.)
20	as a mental health clinician, I have to look at the	20	THE COURT: The State have any additional
21	quality of life that that individual is living. And	21	witnesses?
22	if someone is delusional and isn't making has such	22	MS. DERRY: No, Your Honor.
23	poor judgment and insight, at some point it's our	23	THE COURT: (Indiscernible.)
24	ethical duty to intervene, to make sure that and to	24	MR. GOTTSTEIN: Jerry Jenkins, could you
25	help Mr. Bigley live the best quality of life and have	25	UNIDENTIFIED SPEAKER: Sure.
	Page 111		Page 113
1	the best quality of life that he can have.	1	MR. GOTTSTEIN: I know we just had a quick
2	So to answer your question, I'm sorry, sir,	2	break, but can I (indiscernible)?
3	at a certain point, I think individuals' mental	3	THE COURT: Sure.
4	statuses decompensate enough that it is why we have	4	(Pause.)
5	these processes to make those decisions, because	5	THE COURT: Okay. If you would take that
6	ethically, I'm bound to help Mr. Bigley and to help	6	seat, we're just waiting for counsel.
7	him live the highest quality of life that he can.	7	THE WITNESS: Directions were to sit next to
8	And I truly believe that his quality of life	8	Mr. Gottstein.
9	is much better on medications than off medications.	9	THE COURT: Please stand and raise your right
10	So I think that's why we have these processes here, to	10	hand.
11	make those decisions.	11	(Oath administered.)
12	Q So you think you that you should make the	12	THE WITNESS: I do.
13	decision rather than Mr. Bigley?	13	THE COURT: You may be seated. Could you
14	A No, sir. I'm saying this court process	14	state and spell your first and last name.
15	should make that decision.	15	THE WITNESS: Jerry Jenkins, J-E-R-R-Y,
16	Q But isn't it true that it's your position	16	J-E-N-K-I-N-S.
17	that the court should order him to take the	17	JERRY JENKINS
18	medications rather than allow him to choose whether to	18	called as a witness on behalf of the Respondent,
19	stay in the hospital without medication?	19	testified as follows on:
	stay in the hospital without medication?		
20	MS. POHLAND: Objection, mischaracterization	20	DIRECT EXAMINATION
20 21	•	20 21	DIRECT EXAMINATION BY MR. GOTTSTEIN:
	MS. POHLAND: Objection, mischaracterization of witness testimony. THE COURT: He can you may answer that		
21	MS. POHLAND: Objection, mischaracterization of witness testimony.	21	BY MR. GOTTSTEIN:
21 22	MS. POHLAND: Objection, mischaracterization of witness testimony. THE COURT: He can you may answer that	21 22	BY MR. GOTTSTEIN: Q Mr. Jenkins, could you tell the court what

	Page 114		Page 116
1	Q What is Anchorage Community Mental Health	1	are indications that the services we have provided
2	Services?	2	have not met his needs or he has not responded to
3	A It's the designated Community Mental Health	3	that. Having personal knowledge of his engagement, I
4	Center for the Anchorage area.	4	do not have that.
5	Q Could you briefly or maybe not so briefly.	5	Q Has he been in services with ACMHS in the
6	Could you describe your background and education?	6	recent past?
7	A How far back?	7	A In the recent past, I'd have to look at the
8	Q Just you know, just generally what you	8	discharge summary. But yeah, within the last couple
9	A Elementary I'm kidding.	9	of years he's had some services.
10	Graduate degree in counselor education,	10	Q Do you know what the daily rate is at API
11	California State, University of Pennsylvania.	11	that gets charged
12	I've been practicing in the mental health	12	MS. POHLAND: Objection, foundation,
13	area since October of '82. My specialty is	13	relevance.
14	addictions. I also work with the seriously mentally	14	THE COURT: I'll allow it.
15	ill and other people in community mental health.	15	THE WITNESS: No, I don't know what the daily
16	Q Okay. Are you familiar with Mr. Bigley's	16	rate is.
17	situation?	17	BY MR. GOTTSTEIN:
18	A Only indirectly.	18	Q Do you know what it is approximately?
19	Q And how is that?	19	A I would
20	A Indirectly, in that I have attended a couple	20	MS. POHLAND: Objection, asked and answered.
21	of staffings where he's actually been discussed.	21	THE COURT: If he doesn't know, he doesn't
22	The first time I actually met him was last	22	know.
23	Thursday when I was here. That's been my involvement.	23	BY MR. GOTTSTEIN:
24	Q Can you tell us about that staffing and those	24	Q Has ACMHS made a proposal regarding
25	meetings?	25	providing, let's call them intense services, for
	Page 115		Page 117
1	A Within the community are times when I get	1	Mr. Bigley?
2	involved, when we have people that don't meet or	2	A Yes.
3	don't fall within the continuing services that we	3	Q And could you describe that proposal?
4	provide. And they show up because they may be	4	A I've been contacted a couple of times or
5	frequenting DOC, API, other areas where people don't	5	several times through staff over the last couple of
6	establish community tenure. I'll use that as a	6	months about engagement with the Division of
7	benchmark.	7	Behavioral Health, and asking if we could provide
8	We expect most folks to respond to the	8	on-call, up to 16 hours a day for people to respond to
9	available services. When we don't, we collectively	9	Mr. Bigley.
10	work together with other providers to see what we can	10	And I said yes, we can do that, and provided
11	do differently or better to help people have community	11	a basis for cost of that service.
12	tenure.	12	Q And what was that?
13	Q And you had such meetings about Mr. Bigley?	13	A \$230,000 for 365 days a year, 16 hours a day
14	A Yes.	14	availability of people to be either with or respond to
15	Q Is it fair to say that he is has been	15	Mr. Bigley's needs.
16	unwilling to engage with the system?	16	Q And would that be about half of that if it
17	MS. POHLAND: Objection, leading.	17	was for eight hours a day?
18	THE WITNESS: I don't know whether he	18	A That's correct. The rates are set in a
19	THE COURT: Ask a direct question. Restate	19	formula, so you adjust by the number of hours. So if
20	your question.	20	it's 16, 24, 12, eight.
21	BY MR. GOTTSTEIN:	21	Q Would you if you know, would you expect
22	Q Has Mr. Bigley been unwilling to engage in	22	the cost rates for Mike Mod at Corrections to be about
23	assistance?	23	the same as API, whatever they may be?
		I	
24 25	A I can't answer that because I never dealt with Mr. Bigley in that way. I just know that there	24 25	MS. POHLAND: Objection, foundation. The witness already testified that he doesn't know what

	Page 118		Page 120
1	API's rates are, so it's impossible for him to answer.	1	that incident, if you recall?
2	THE COURT: Sustained.	2	A I'd have to go back and look. I do not
3	BY MR. GOTTSTEIN:	3	recall. That was 18 months ago.
4	Q Do you remember an incident involving an	4	Q Okay. So do you think that even people
5	order (indiscernible) from early release involving	5	diagnosed with very serious mental illness ought to
6	Mr. Bigley in February or so of 2007?	6	have the right to choose what happens to them and for
7	A I'd have to look I'd have to look at	7	them?
8	clinical documentation. I do not.	8	A As baseline, yes, as long as they have the
9	Q Do you recall a meeting that we had with	9	ability to make that decision.
10	between yourself and Dr. Curtis?	10	I have seen situations due to brain damage or
11	A Yes.	11	whatever, organicity, head injury, where people did
12	Q Does that help your recollection?	12	not have a rational ability, that I would take with a
13	A I just know that and again, I don't have	13	lot of I'll use the financial term, due diligence,
14	those notes with me to refresh my memory. But I do	14	making sure that a person's rights were honored as far
15	remember we had a discussion about that return and	15	as they can be.
16	what the basis was.	16	I've seen folks that do not have the ability
17	Q And you don't recall what that basis was?	17	to make that decision. It may be dementia,
18	A I just remember he	18	Alzheimer's, it may be a brain injury, or whatever.
19	MS. POHLAND: Objection, asked and answered.	19	Q When you say that, do you mean that in the
20	THE COURT: Overruled. You can answer.	20	sense of not being able to express a desire?
21	BY MR. GOTTSTEIN:	21	A It may be expression, it may be to understand
22	Q You can answer.	22	the implications. They may totally not be in contact
23	A Okay. That there was concern about his	23	with reality around them and not have the ability to
24	return. I think at that time, he was Mr. Bigley	24	make a decision a coherent decision.
25	was being served by IDP, Institutional Discharge	25	Q Do you think that usually mental health
	Page 119		5 101
	idge ii)		Page 121
1	Program.	1	page 121 patients know how the drugs make them feel?
1 2	Program. Q Okay. Was a result of that meeting at ACMHS	2	
2 3	Program. Q Okay. Was a result of that meeting at ACMHS decided not to participate in early return early	2 3	patients know how the drugs make them feel? A I would think they know better than anybody else.
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	Page 122		Page 124
1	of informed consent?	1	amount of staffing in the future?
2	A No.	2	A Yes, ma'am.
3	Q What is community tenure?	3	Q And what is the near future?
4	A Community tenure is people living outside of	4	A If the State of Alaska petitioned Behavioral
5	institutions, whether it be jail, API, crisis	5	Health, said this is what we want you to do, it would
6	treatment center. It's people actually living in the	6	probably take us 30 to 45 days to ramp up. Because we
7	community.	7	have to recruit, train, do some linkages, make sure we
8	Q Okay. And you said that you did an	8	have the right personalities involved that would be
9	evaluation as far as what you think it would cost to	9	acceptable by the different parties, which I assume
10	care for Mr. Bigley 365 days a year for 16 hours a	10	would be guardian, counsel, Division of Behavioral
11	day, and that was \$230,000?	11	Health, and us, and Mr. Bigley.
12	A Yes, ma'am.	12	Q And Mr. Jenkins, you haven't had the
13	Q And that was just an estimate?	13	opportunity to evaluate Mr. Bigley and you don't know
14	A If I'm paying someone \$20 an hour to do the	14	his diagnosis other than what you've read. Do you
15	service times the personnel costs, which are	15	feel that at this time you could make a good clinical
16	insurance, time off, there's a formula that I work.	16	opinion about whether or not you think that Mr. Bigley
17	And you take the rate times 1.35, times 1.44, and that	17	would be able to succeed with this plan of 365 days a
18	gives me my dollar figure, times the number of hours,	18	year, 16-hour-a-day care?
19	times the number of days.	19	A Being an eternal optimist, yes. But again,
20	Q Okay. And so that's what it would cost for	20	it's not been tried, that I'm aware of.
21	ACMHS to be with Mr. Bigley 365 days a year for 16	21	Q And what is there a reason why you haven't
22	hours?	22	been able to evaluate Mr. Bigley yet?
23	A Yes, ma'am.	23	A Because I am an executive director. I
24	Q But do you know whether or not anyone has	24	don't
25	come up with that amount of money to pay for	25	Q Oh, okay. So who normally does that?
	Page 123		5 105
	rage 125		Page 125
1	(indiscernible)?	1	A Clinical staff, staff psychiatrist,
1 2		1 2	A Clinical staff, staff psychiatrist, counselors, clinical associates.
	(indiscernible)?		A Clinical staff, staff psychiatrist,
2	(indiscernible)? A Not that I am aware of.	2	A Clinical staff, staff psychiatrist,counselors, clinical associates.Q And have as the executive director, haveany of them been able to tell you whether or not they
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1	recovery. We believe people ought to be given an	1	medical management from Tulane University in 2000 and,
2	opportunity to be in the least-restrictive environment	2	do administrative consulting and as well as
3	possible.	3	psychiatry.
4	Now, the different tools that are used to	4	And I am also board certified in psychiatry,
5	obtain that, there are many tools in the tool box.	5	neurology, and board certified in adult forensic
6	Medication is one, support is another, environmental	6	psychiatry.
7	design is another. To say that there is one way I	7	Q Do you have you been qualified as an
8	am not going to say that. But the basis of the	8	expert witness before?
9	question the basis of the question, should he be	9	A Lots of times.
10	given a chance, yes.	10	Q Lots of times? Were you asked by API to
11	MR. GOTTSTEIN: No further questions.	11	evaluate Mr. Bigley's situation?
12	MS. DERRY: Nothing, Your Honor.	12	A I was asked by Mr. Adler to evaluate
13	THE COURT: Thank you, sir. You may be	13	Mr. Bigley as a second opinion, yes.
14	excused.	14	Q Do you usually like to be appointed by the
15	(Witness excused.)	15	court as an independent
16	THE COURT: Your next witness.	16	A That's happened less and less over the years.
17	MR. GOTTSTEIN: I is Dr. Wolf here?	17	But no, I'm willing to do an independent evaluation
18	UNIDENTIFIED SPEAKER: (Indiscernible.)	18	for whichever side asks me to do it independently.
19	MR. GOTTSTEIN: Well, let's call let's	19	Q And it wouldn't wouldn't change your
	call Mr. Adler back.	20	testimony, of course, would it?
21	(Pause.)	21	A It would not.
22	UNIDENTIFIED SPEAKER: I found Mr. Wolf or	22	Q Did you do an evaluation of Mr. Bigley
	Dr. Wolf.	23	A I
24	THE COURT: (Indiscernible) once you get	24	Q or of his
25	settled, take your coat off, remain standing, please.	25	A Of his situation? Mr. Bigley, when I came
	Page 127		Page 129
1	Would you raise your right hand.	1	here, did not wish to interact with me, other than to
2	(Oath administered.)	2	say he didn't really want to be in the interview room.
3	THE WITNESS: I do.	3	But I reviewed his chart and I reviewed some
4	THE COURT: You may be seated. And once you	4	data and history that your office sent me after your
5	are seated, could you spell and state state and	5	office knew that that request had been asked of me.
6	spell your full name.	6	Q Did you prepare a written report?
7	THE WITNESS: Aron Wolf, A-R-O-N, W-O-L-F.	7	A I did do a written report for Mr. Adler, yes.
8	THE COURT: You may proceed.	8	Q Did you bring that with you?
9	ARON WOLF, MD	9	A I did.
	called as a witness on behalf of Respondent, testified	10	Q May I have a copy of it? How many copies did
11 12	as follows on: DIRECT EXAMINATION	11	you bring?
		12	A Just my own. At the time I was asked, I was
13 14	BY MR. GOTTSTEIN: Q Could you briefly describe your education,	13 14	asked just to do a second opinion. I didn't know when
14 15	Q Could you briefly describe your education, background, and experience?	15	I was initially asked this had to do with court
16	A Okay. I have a BA from Dartmouth College	16	purposes. MR. GOTTSTEIN: Okay. I'd like to mark this
17	with an emphasis in both pre-med there was a	17	I think H.
18	special pre-med thing and psychology.	18	THE COURT: Is this a copy he
19	Medical school was an MD at the University of	19	(indiscernible)?
20	Maryland, and then a medical internship and a	20	THE WITNESS: He can. I have it on my
21	psychiatric residency also at the University of	21	computer at home. Do you want to make copies before
22	Maryland Medical School campus.	22	you do that?
23	Now, then three years in the Air Force here,	23	MR. GOTTSTEIN: Should we go off record
			-
24	and I've been practicing psychiatry here in Alaska	24	and

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1	we'll make the copies.	1	A I have.
2	MS. POHLAND: (Indiscernible.)	2	Q Have you read Dr. Jackson there's two, I
3	MR. GOTTSTEIN: Could we have, what, maybe	3	think, affidavits. But have you read Dr. Jackson's
4	five copies?	4	affidavit that discusses generally the drugs and the
5	THE COURT: You can continue.	5	brain damage and alternatives?
6	BY MR. GOTTSTEIN:	6	A I have.
7	Q Okay. Could you briefly describe the your	7	Q And have you read Dr. Jackson's affidavit
8	conclusions?	8	that specifically pertains to well, let's talk
9	MS. POHLAND: (Indiscernible) objection until	9	there.
10	such time as (indiscernible) the report	10	Do you have any
11	(indiscernible), Your Honor.	11	A Yes and yes, I have read both of those.
12	MR. GOTTSTEIN: What was	12	Q Okay. And do you agree with the analysis
13	MS. POHLAND: Questions based on the written	13	contained in the Whitaker and Jackson's affidavits?
14	report.	14	MS. POHLAND: Object to form. Could we break
15	THE COURT: I don't understand your	15	that down into first one and then the other?
16	objection. State it.	16	MR. GOTTSTEIN: Sure.
17	MS. POHLAND: That we would like to actually	17	BY MR. GOTTSTEIN:
18	have the report sitting in front of us and have a	18	Q Do you well, let's say this. Do you have
19	chance to look at it before questions are asked about	19	any disagreements with the analysis in Mr. Whitaker's
20	the	20	affidavit?
21	THE COURT: (Indiscernible) made available to	21	A About the general data about what
22	you by API?	22	psychotropic medicines can do, no, I don't have any.
23	MS. POHLAND: No, Your Honor.	23	Q And how about Dr. Jackson's general analysis?
24	BY MR. GOTTSTEIN:	24	A I don't know what her data is based on, but
25	Q Did you did you give this to	25	it I have not seen her underlying data. I have no
	Page 131		Page 133
1	(indiscernible)?	1	major difficulties with her general analysis, but I
2	A I did (indiscernible) Mr. Adler	2	don't know I have not seen the data on which her
3	electronically and	3	analysis is based.
4	THE COURT: Well, wait. Did you just when	4	Q Okay. And I think you testified that you
5	was it that you were asked to do this and when did you	5	also read the affidavit about where she discusses
6	meet with Mr. Bigley?	6	Mr. Bigley's situation?
7	THE WITNESS: I was asked the last week of	7	A I have.
8	October, and I met with Mr. Bigley and reviewed the	8	Q Okay. Okay. Let's (indiscernible).
9	chart on the 3rd of November.	9	MR. GOTTSTEIN: Move to admit.
10	MS. DERRY: November 3rd?	10	THE COURT: Let's let's take five minutes.
11	THE WITNESS: Yes.	11	Let's (indiscernible), read this document, and
12	THE COURT: And can you just tell us when you	12	(indiscernible). So let's just say, oh, I don't know,
13	provided Mr. Adler with the report?	13	12 till.
14	THE WITNESS: The 5th.	14	11:43:58
15	THE COURT: I'm sorry?	15	(Off record.)
16	THE WITNESS: The 5th, 5th of November.	16	11:50:01
17	THE COURT: Sixth?	17	THE CLERK: On record.
18	THE WITNESS: Fifth, five.	18	MR. GOTTSTEIN: I move to admit the report,
19	THE COURT: Five, got it.	19	Exhibit H.
20	(Pause.)	20	MS. DERRY: I have no objection, Your Honor.
21	MR. GOTTSTEIN: I can maybe inquire in	21	THE COURT: H is admitted.
22	J 1	00	
	another area.	22	(Exhibit H admitted.)
23	another area. BY MR. GOTTSTEIN:	22 23	(Exhibit H admitted.) BY MR. GOTTSTEIN:
23 24			

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1	what PCA stands for?	1	medications are bad?
2	A Primary care attendant.	2	MR. GOTTSTEIN: Objection, misstates the
3	Q And what what does that consist of?	3	affidavit.
4	A Under Medicaid in Alaska federal law,	4	THE COURT: You may answer.
5	actually, these are individuals who are paid for by	5	THE WITNESS: No. I agree that a number of
6	Medicaid to be with a person a certain number of hours	6	these medications have potential side effects that in
7	a week, so that their basic care can be taken care of.	7	the past have not been thoroughly considered and in
8	A number of states have it for both physical and	8	their prescribing as a totally safe thing. So no,
9	mental illness. Alaska only has it for physical	9	they the side effects that can happen with these
10	illness at this point.	10	medications need to be considered when prescribing.
11	Q So the reason why I think that's clear	11	BY MS. DERRY:
12	enough.	12	Q And you have the clinical training in
13	And then so first, all these statements in	13	psychopharmacology, don't you?
14	here are true and correct to the best of your	14	A I do.
15	ability?	15	Q And in your training
16	A To the best of my ability.	16	A As much as you get as a resident.
17	Q Okay. Have you reviewed the proposal for	17	Q As much as a psychiatrist does?
18	less-intrusive alternative that was proposed by	18	A That's right.
19	Mr. Bigley here?	19	Q And in your experience with
20	MS. POHLAND: Objection, relevance.	20	psychopharmacology training, you learned about the
21	THE COURT: Overruled.	21	side effects of medications?
22	THE WITNESS: I can answer. I have not. The	22	A One does, yes.
23	only thing I have reviewed was an e-mail that your	23	Q And you said that you have been practicing
24	office sent that was listed as a further compromise or	24	here in Alaska since 1967; is that correct?
25	something like that.	25	A That's correct.
	Page 135		D 100
			Page 137
1	BY MR. GOTTSTEIN:	1	Q How much do you think that medications have
1 2	BY MR. GOTTSTEIN: Q Do you recall if it talked about allowing	2	Q How much do you think that medications have changed since 1967?
2 3	BY MR. GOTTSTEIN: Q Do you recall if it talked about allowing Mr. Bigley to come to API when he wants to?	2 3	Q How much do you think that medications have changed since 1967?A Well, lot there are lots of new
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 BY MR. GOTTSTEIN: Q Do you recall if it talked about allowing Mr. Bigley to come to API when he wants to? A I have it with me. No, that's not it. Q If you don't remember, that's fine. A I don't remember. MR. GOTTSTEIN: Okay. That's fine. I have no further questions. ARON WOLF, MD testified as follows on: CROSS EXAMINATION BY MS. DERRY: Q Mr. Wolf, my name is Laura Derry, and I am an attorney for API. A Hi. Q You said that you had a chance to review Robert Whitaker's affidavit; is that correct? A That is correct. Q And you said that you generally agree that medications as to the general premise that medications can have some of the effects that he listed? 	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	 Q How much do you think that medications have changed since 1967? A Well, lot there are lots of new medications and new classes of medications that are out since then. Q And do you keep yourself appraised of medications and their side effects? A As best I can, yes. One needs to keep up with one's CME, education credits and do that. Q And in Mr. Whitaker's affidavit, most of his research was prior to 1997; are you aware of that? A I believe so, yes. I have met Mr. Whitaker. Q I'm sorry? A I have met Mr. Whitaker and had a chance to talk to him about that, yes. Q But you did just say that you believe that his research was prior to 1997? A I believe so. Q And do you agree that psychopharmacology has changed dramatically since 1997? A I think the class of medications he is talking about were already on the market by '97, so

	Page 138		Page 140
1	practice, do you prescribe antipsychotics?	1	But I certainly didn't get a chance to be
2	A I do.	2	with him long enough. He was clear enough and he knew
3	Q And do you weigh the pros and cons of the	3	that I was there to evaluate. So there were those
4	risk versus the benefits when you prescribe those?	4	things, even in the short interaction.
5	A I do.	5	Q And this is a little bit of a side note. But
6	Q And in general, what how do you make that	6	Mr. Bigley is good about articulating his wants at a
7	weight?	7	specific period of time, do you
8	A How do I make that weight? Well, number one,	8	MR. GOTTSTEIN: Objection. Is that a
9	whether the individual indeed is showing psychotic	9	question?
10	symptoms and might very well be in need of some	10	MS. DERRY: I'm sorry. It was a tone of a
11	medication that would allow them to do that.	11	question without the appropriate beginning.
12	I also, as is now general practice, do an	12	BY MS. DERRY:
13	evaluation for the side effects on at least a	13	Q Do you did Mr. Bigley he made it clear
14	quarterly basis on every person I have on	14	to you that he didn't want to speak to you?
15	antipsychotics for any reason.	15	A That's correct.
16	Q And when you say you do that, is that	16	Q Have you been in his presence when he makes
17	(indiscernible), you are checking into the physical	17	it very clear that he would like a cup of coffee?
18	symptoms that can occur because of the side effects?	18	A Yes.
19	A Weigh them, and blood sugar and blood	19	Q And have you ever been in his presence when
20	pressure and all of those kinds of things, yes. Lab	20	he talks about food being poisoned?
21	work and physical.	21	A No.
22	Q And is it your opinion, as a psychiatrist who	22	Q Dr. Wolf, are you would you consider
23	uses these antipsychotic medications, that these	23	yourself to be cautious in the prescribing of
24	medications are killing Mr. Bigley?	24	antipsychotic medications?
25	A I don't Mr. Bigley is going downhill. I	25	A Yes.
	Page 139		Page 141
1	mean, more he is getting more difficult to deal	1	Q And you haven't had a chance to really give a
2	with. It seems his delusions are more, he's getting	2	good diagnosis or evaluation of Mr. Bigley. But have
3	into more trouble. Whether that's the natural course	3	you been able to determine whether or not he would
4	of his illness or the medications I think is an	4	agree that he is gravely disabled?
5	unanswered question right now.	5	A I would agree with that.
6	Q And, Dr. Wolf, you in this letter that you	6	Q And what is the basis of that opinion?
7	wrote to the hospital here, you didn't have a very	7	A I think that his his inability to function
8	good opportunity to evaluate Mr. Bigley at that time,	8	outside of a very structured setting over the last
9	did you?	9	couple of years would fall into the definition of
10	A He didn't allow me to have that opportunity,	10	gravely disabled, yes.
11	no. I had the opportunity, but he didn't wish to	11	Q And in your personal experience as a
12	exercise it.	12	psychiatrist, can medication be in the best interests
13	Q And did in this short period of time that	13	of an individual?
14	you were trying to have a conversation with	14	A It can.
15	Mr. Bigley, did were you able to form an opinion of	15	Q And what is your basis of that opinion?
16	whether or not you think he's capable of informed	16	A Well, there are there are any number of
17	consent?	17	individuals who respond very well to a variety of
18	A I was not.	18	psychiatrically focused medications.
19	Q You were not?	19	Q And, Dr. Wolf, you are very qualified, and I
20	A I was not.	20	believe you're very qualified to answer this question.
21	Q And in your reading	21	What do you think happens to Mr. Bigley or any person
22	A And I say that because the folks on the unit	22	with severe mental illness's mental status when they
23	said he had been unable to interact with them, and he	23	go to jail?
24	was able to verbalize quite clearly that he didn't	24	A I actually think that in this state, lots of
25		25	times that the correctional system is immensely better

25

want to be with me.

24 A I actually think that in this state, lots of 25 times that the correctional system is immensely better

	Page 142		Page 144
1	than coming here.	1	that they don't have out on the street.
2	Q And why do why?	2	Q And what are your what is your opinion on
3	A Because I think, number one, people are there	3	the use of physical restraints?
4	longer, and number two, I really think the folks who	4	A It's to be avoided as much as it possibly
5	run the mental health part of the correctional system	5	can.
6	are very good.	6	Q Do you believe that the use of physical
7	So, you know, is it good for everybody? No.	7	restraints can be more intrusive for someone with
8	But are the folks in the correctional system who do	8	severe mental illness than the use of medication?
9	mental health good and do they have some good	9	A Probably so most of the time.
10	programs? Yes, they do.	10	Q Do you believe that Mr. Bigley is capable of
11	Q And when you said people stay longer, did you	11	understanding why he's restrained when he's restrained
12	mean the staff stay longer, or did you mean people	12	in the Department of Corrections?
13	like Mr. Bigley?	13	MR. GOTTSTEIN: Objection, foundation.
14	A People like Mr. Bigley. I mean, they	14	THE WITNESS: And I really don't know.
15	they they usually he hasn't, but they're usually	15	MS. DERRY: No further questions. Thanks.
16	there for a sentence and they are there for more than	16	THE COURT: I have some questions.
17	a week or two weeks. Their sentences are longer, so	17	First off, just as a you typed your last
18	you can do more therapy and more intervention,	18	name with a small W. Is that a typo or is that how
19	actually.	19	(indiscernible)?
20	Q And is the basis of that opinion because of	20	THE WITNESS: That's a typo.
21	the length of the stay, that when they're sentenced,	21	THE COURT: And you suggested the use of an
22	they must stay their amount (indiscernible)?	22	MRI to evaluate the condition of brain damage
23	A I think that's mostly I mean, the folks at	23	(indiscernible). If he were to be medicated with
24	API try, but, you know, this is a medical system and	24	Risperdal now and the evaluation done at some point
25	that's a correctional system, and people are usually	25	after that became effective, two months, would the
	Page 143		Page 145
1	sentenced longer.	1	the administration of that drug have any impact on the
2	And so folks who are there at Mike Mod or at	2	findings of the MRI?
3	Highland, or even folks out in Palmer, where they've	3	THE WITNESS: Well, if the Risperdal or that
4	got a really good program, are just there longer and	4	kind of drug were indeed to be causing this, and I
5	you can work with them better and longer.	5	don't know that that's the case, then that would be
6	Q And to your knowledge, with this more	б	that much more medication over that period of time.
7	successful treatment at the Department of Corrections,	7	But I I don't so I mean, that would be
8	is that usually facilitated by the use of medications?	8	a progressive degradation if that were the case.
9	A Certainly they use some medications. They	9	Now, when I was talking about medication for
10	are pretty judicious about their use of medication.	10	that, what the radiologists do is give a sufficient
11	They don't use a whole lot, but yes, they do use	11	amount of Valium or one of one of the other
12	medication.	12	benzodiazepines to make the person very relaxed for
13	Q But they use medication when you feel it's	13	the test. So that's given 20 minutes before the test
14	necessary, you believe?	14	for the test itself, which is what I was alluding to
15	A They prescribe medications when they feel	15	for that.
16	it's necessary, yes.	16	THE COURT: Let's assume that the MRI was
17	Q And through your personal experience, you	17	done at any given point and brain damage was detected.
18	don't you don't feel that they are excessive in	18	Is there any ability to determine the etiology of the
19	their use of medications, in general?	19	damage?
20	A Corrections? No.	20	THE WITNESS: To my knowledge, there isn't.
21	Q And what do you think the effect of the	21	But there was an article actually which
22	stability of staying in the correctional facility does	22	appeared in the New York Times, by Dr. Nancy
23	for someone with mental illness?	23	Andreassen from the University of Iowa, who had been
0 4			
24 25	A I believe it provides for some individuals, it provides them some of the structure	24 25	actually the editor of the American Journal of Psychiatry, as well as a researcher. And she's

	Page 146		Page 148
1	developed some protocols.	1	MS. POHLAND: Relevance.
2	And because I was working on this, I sent her	2	THE COURT: Do you want to respond to the
3	an e-mail last week asking her whether she would	3	objection?
4	and she is an old friend of mine whether she would	4	MR. GOTTSTEIN: I think it puts context
5	send me the protocols that she's using which in this	5	it's relevant to me.
б	article basically said, yes, you could. But I've not	6	THE COURT: Then try to articulate.
7	seen those protocols to date.	7	MR. GOTTSTEIN: I understand. It goes to the
8	THE COURT: Do you have (indiscernible)? Do	8	ability to work with people who don't want to take
9	you have any redirect?	9	medication.
10	ARON WOLF, MD	10	THE COURT: Ask just ask the question
11	testified as follows on:	11	again so I can (indiscernible) context
12	REDIRECT EXAMINATION	12	(indiscernible).
13	BY MR. GOTTSTEIN:	13	BY MR. GOTTSTEIN:
14	Q Do you understand Mr. Whitaker to be well,	14	Q Do you remember the question? Could you
15	first off, you said that you know of Mr. Whitaker; is	15	repeat the question?
16	that correct?	16	A Yeah. The
17	A I have met him, yes.	17	THE COURT: No.
18	Q Do you understand Mr. Whitaker to be	18	MR. GOTTSTEIN: No?
19	categorically against the use of neuroleptics?	19	BY MR. GOTTSTEIN:
20	A I how do I answer that without a double	20	Q Do you ever require people to take
21	negative? I	21	neuroleptics who don't want to?
22	Q Well, maybe I can rephrase it.	22	THE COURT: The objection is sustained.
23	A Yeah. I don't well	23	THE WITNESS: As an outpatient
24	Q Is it your understanding that Mr. Whitaker	24	MR. GOTTSTEIN: Well, he said he
25	suggests that they be used selectively?	25	THE COURT: He's going to ask a different
	Page 147		Page 149
			5
1	A Yes, it is my that's my understanding.	1	question.
1 2	Q Now, does his affidavit also include quite a	1 2	question. BY MR. GOTTSTEIN:
	Q Now, does his affidavit also include quite a bit of research on the newer neuroleptics, since 1997?		question. BY MR. GOTTSTEIN: Q This may be the same one, but do you usually
2 3 4	Q Now, does his affidavit also include quite abit of research on the newer neuroleptics, since 1997?A It does both the old ones and the newer ones	2 3 4	question. BY MR. GOTTSTEIN: Q This may be the same one, but do you usually try usually try and get your patients to
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	Page 150		Page 152
1	MR. GOTTSTEIN: I have no further questions.	1	going along, you know, he seems to feel the medication
2	ARON WOLF, MD	2	doesn't help. The staff feels the medication, at
3	testified as follows on:	3	least intermittently, does help.
4	RECROSS EXAMINATION	4	Since I didn't talk to him directly, I
5	BY MS. DERRY:	5	can't weigh in on that. They were pretty divergent
6	Q Dr. Wolf?	6	views.
7	A Yes.	7	MS. DERRY: No further questions.
8	Q You said you've read the affidavit also of	8	THE COURT: Thank you, Dr. Wolf.
9	Dr. Grace Jackson?	9	THE WITNESS: Thank you.
10	A I did.	10	THE COURT: You may be excused.
11	Q And in that affidavit, she took just a few	11	(Witness excused.)
12	pieces out of Mr. Bigley's chart. Is that also what	12	MR. GOTTSTEIN: Mr. Adler.
13	you understand of what she did in order to evaluate	13	THE COURT: Will you find Mr. Adler?
14	him?	14	UNIDENTIFIED SPEAKER: I'll find him.
15	A I think she didn't see the whole chart, so	15	UNIDENTIFIED SPEAKER: May I be excused for
16	so I really don't know. I mean, I think the preamble	16	just a moment?
17	said she had reviewed a lot of data.	17	(Pause.)
18	Q As a clinician, would you make	18	UNIDENTIFIED SPEAKER: He'll be down
19	recommendations if you hadn't actually physically	19	shortly.
20	evaluated a patient?	20	(Pause.)
21	A Well, I sort of did in this case. I think	21	THE COURT: (Indiscernible.) Actually, sir,
22	one where there is extensive data, one can make	22	why don't you come (indiscernible) get a better
23	some recommendations that could very well be relevant	23	recording.
24	because you reviewed an intimate amount of data.	24	And, Mr. Adler, you are still under oath.
25	I mean, for instance, one of the nice things	25	THE WITNESS: Yes, sir.
	Page 151		Page 153
1	in the present API chart is the social work discharge	1	Page 153 RONALD ADLER
1 2	_	1 2	
	in the present API chart is the social work discharge notes from all 81 admissions, and that was incredibly helpful to see the 30 years' worth of what Mr. Bigley		RONALD ADLER called as a witness on behalf of the Respondent, testified as follows on:
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	Page 154		Page 156
1	per day is somewhere between 550 and \$600.	1	roughly the same as yours?
2	And that's what I was trying to explain to	2	A I don't know that at all.
3	Mr. Gottstein at the deposition, is that there's a	3	MR. GOTTSTEIN: All right. I have no further
4	difference between Medicaid costs Medicaid billable	4	questions.
5	services and our actual cost to provide the service.	5	THE COURT: You may be excused.
6	BY MR. GOTTSTEIN:	6	(Witness excused.)
7	Q Do you charge do you bill patients when	7	THE COURT: Next witness.
8	they get discharged at that \$1,018 rate?	8	MR. GOTTSTEIN: I don't have anything else,
9	A Well, first of all, we are for the because	9	Your Honor.
10	we are an IMD, we are not allowed to bill Medicaid for	10	MS. DERRY: (Indiscernible) case in chief?
11	patients between the ages of 21 and 65. We are	11	MR. GOTTSTEIN: Huh?
12	required by the Center for Medical Services to make a	12	MS. DERRY: I'm sorry, Your Honor.
13	good faith effort to collect fees.	13	THE COURT: Do you have I am not going to
14	Q And is that at the \$1,018 rate currently?	14	allow you need to make these individuals available
15	A Yes.	15	for cross examination.
16	MR. GOTTSTEIN: I have no further questions.	16	MR. GOTTSTEIN: Okay. So who do they want to
17	RONALD ADLER	17	cross examine? I mean, there needs to be some
18	testified as follows on:	18	okay. I mean, most of them are out of town, and I
19	CROSS EXAMINATION	19	didn't know when they were. I've been trying to
20	BY MS. DERRY:	20	arrange a time.
21	Q Mr. Adler, what is an IMD?	21	THE COURT: Today.
22	A It's a it's an exclusion for state	22	MR. GOTTSTEIN: Okay. Who do you want to
23	psychiatric hospitals. And that stands for	23	cross examine?
24	Institution for Mental Disease.	24	MS. DERRY: It was my understanding from
25	Q And why is it that you can't bill when	25	THE COURT: Who do you want to go first?
	Page 155		Page 157
1	someone is between the ages of 21 and 65?	1	MS. DERRY: Well, I would like to make sure
2	someone is between the ages of 21 and 65? A We technically receive disproportionate share	2	MS. DERRY: Well, I would like to make sure that we that Ms Dr. Mosher is stricken because
2 3	someone is between the ages of 21 and 65? A We technically receive disproportionate share funding to cover patients that do not have do not	2 3	MS. DERRY: Well, I would like to make sure that we that Ms Dr. Mosher is stricken because he cannot, because he
2 3 4	someone is between the ages of 21 and 65? A We technically receive disproportionate share funding to cover patients that do not have do not qualify for third-party reimbursement, what you would	2 3 4	MS. DERRY: Well, I would like to make sure that we that Ms Dr. Mosher is stricken because he cannot, because he THE COURT: Let's deal with the people that
2 3 4 5	someone is between the ages of 21 and 65? A We technically receive disproportionate share funding to cover patients that do not have do not qualify for third-party reimbursement, what you would call an indigent population.	2 3 4 5	MS. DERRY: Well, I would like to make sure that we that Ms Dr. Mosher is stricken because he cannot, because he THE COURT: Let's deal with the people that you want to cross examine.
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	24		24	you tell me why you didn't meet with Mr. Bigley face

	Page 162		Page 164
1	A I'm in the state of North Carolina, and	1	treatment plan and perhaps be of benefit in terms of
2	really did not have the means or the time to perform	2	providing the next step.
3	that kind of evaluation.	3	Q Thank you. And, Dr. Jackson, do you you
4	Q Do you generally meet with patients face to	4	actually worked as a psychiatrist?
5	face in order to clinically diagnose them?	5	A That's correct.
6	A It really well, if I'm going to be	6	Q And do you prescribe medications to any of
7	providing clinical care to a patient, absolutely.	7	your patients?
8	If I'm involved in forensic consultation,	8	A No. Actually, what I have done well, I
9	there are times when I may be giving opinions to other	9	should back up and perhaps, if you'd like me to, I
10	providers or to family members and patients based on a	10	want to answer your question directly and not waste
11	review of records and my personal expertise. And in	11	words.
12	those cases, a face-to-face meeting is not always	12	My current focus is on research and
13	performed.	13	completing a second book, and then I'll be returning
14	Q And are you understanding your evaluation of	14	to clinical work full time.
15	Mr. Bigley to be a forensic evaluation?	15	I've had a private practice here locally in
16	A I'm sorry; could you repeat that? I didn't	16	Wilmington, North Carolina, but for the past six
17	quite hear you all of what you said.	17	months has been strictly focused on completing a
18	Q Yes. Let me I'm going to turn the phone	18	second book. So I'm not seeing patients right at this
19	real quick. Can you hear me?	19	current moment. So I have been dividing my time
20	A Yes. That's much better. Thanks.	20	between clinical work.
21	Q Yes. I turned the phone. And is it your	21	The last time I was working on a full-time
22	understanding that your evaluation of Mr. Bigley's	22	clinical capacity with a heavy volume of patients was
23	records was for forensic purposes?	23	two summers ago. And in that capacity, I was
24	A Well, really, it was to answer two questions.	24	continuing medications on patients who were currently
25	Predominantly for the forensic issue at hand, which is	25	medicated, but I was not starting patients on any of
	Page 163		Page 165
1	the appropriateness of the forced medication. So it	1	these medications that we're discussing here in the
2	was I guess it's, you know I guess it's maybe	2	context of Mr. Bigley's care.
3	semantics as to whether or not that's a clinical or	3	Q Okay. And, Dr. Jackson, if someone comes to
4	strictly forensic opinion.	4	you and it is clear that they are incapable of
5	Q Okay. And you also noted that you didn't	5	informed consent, would you prescribe medications to
6	have access to all of the medical records. Could you	б	them?
7	tell me why you didn't have that kind of access?	7	A I would not prescribe medications to them
8	A When I initially performed my consultation at	8	without understanding the circumstances and who was
9	the request of Mr. Gottstein, it was really on very	9	their guardian or who was the relevant party for
10	short notice.	10	making that informed consent decision on their behalf.
11	And you know, to be honest with you, a full	11	Q If a guardian or the other someone labeled
12	review of records would be instructive in terms of,	12	as an agent in a psychiatric advanced directive, if
13	you know, putting together a full chronology of	13	any party who could help an individual make a mental
14	events. But for the matter at hand, I believe I had	14	healthcare decision was interested in medicating
15	sufficient information certainly to pass judgment on	15	someone who was who lacked informed consent, would
16	the present matter.	16	you assist them in giving medications in
17	Q Okay. And also and it says that you had	17	prescribing medications?
18	lack of access to collateral sources of information	18	A I would assist them with information.
19	such as interviews with family or friends. Would	19	However, I believe that there is so much information
20	information such as that perhaps have changed your	20	which which argues against the use of neuroleptics
21	clinical opinion?	21	or antipsychotics that I, myself, would consider it
22	A It would not change my opinion in terms of	22	both unscientific and unethical to administer those
23	the appropriateness or the prudence of the proposed	23	medications in depending on the context.
24	course of treatment vis-a-vis the state. But it would	24	So if a family insisted on those treatments,
25	perhaps, you know, influence a more comprehensive	25	I would, you know, certainly engage in information,
			42 (Dares 162 to 165)

1	Dago 166		Daga 169
1	Page 166		Page 168
	but I would probably direct them to another physician	1	I'm not familiar with such a thing as "appropriate
2	if that's the kind of treatment intervention that they	2	standard of care." I guess I would have to ask for a
3	insisted upon receiving.	3	clarification of what that means when you say it that
4	Q And, Dr. Jackson, do in your research and	4	way.
5	what you're working on right now, do you tend to work	5	Q But it is the use of neuroleptics and
6	with people who have severe mental illness, or are	6	antipsychotics is within the normal standard of care
7	they people who are newly diagnosed with mental	7	for psychiatrists in the United States; is that
8	illness?	8	correct?
9	A No. When I was working I'll just give you	9	A I would say that the use of neuroleptics and
10	some insight.	10	antipsychotics in psychiatric care is a common, if not
11	A couple of summers ago, almost my entire	11	prevailing, practice in the United States.
12	caseload in a VA clinic, I had the whole chronically	12	Whether that should be elevated to something
13	mentally ill, severely ill patient population in that	13	that we call a standard or whether that's deemed
14	clinic.	14	appropriate is something that's always evolving, and
15	And in the prison system where I worked here	15	has to evolve for a very good reason, that science is
16	in North Carolina, I was also working in one facility	16	often ahead of the practice of what the herd does or
17	that had the chronically mentally ill. So I would say	17	what the consensus is at any one moment in time.
18	that most of my work in the past four years has been	18	Q When you looked at Mr. Bigley's medical
19	with the chronically, severely mentally ill. So I	19	chart when was the last time you looked at it?
20	have very good first-hand knowledge of of what	20	A Oh, I believe the last hearing that we had.
21	they're up against and the hazards of their	21	And I'm a little bit fuzzy on the last time I had the
22	medications.	22	telephonic testimony on this case. I remember the
23	Q And, Dr. Jackson, have you ever practiced	23	report I believe was actually in last May, and but
24	psychiatry in the State of Alaska?	24	I don't recall the last time we had the hearing on
25	A No, I have not.	25	this. I think it may have been August. I'm trying to
	Page 167		Page 169
1	Q Are you aware of any other any	1	remember.
2	less-intrusive alternatives available for mental	2	Q And
3	illness treatment here in Alaska?	3	MR. GOTTSTEIN: We I think we actually
4	A None other than what I've read in the in	4	stipulated to May, right?
5	the statements that have been provided by other	5	MS. POHLAND: May.
6	witnesses on this case and from what Mr. Gottstein has	6	
	outlined in his affidavit or in his opinion for the		BY MS. DERRY:
7		7	BY MS. DERRY: O I believe it was May. Does that sound
7 8	1		Q I believe it was May. Does that sound
8	court, as well.	7	Q I believe it was May. Does that sound correct?
	court, as well. So I don't know all of the details of that,	7 8	Q I believe it was May. Does that sound correct?A That sounds correct.
8 9	court, as well. So I don't know all of the details of that, but I can't imagine it would be that different than my	7 8 9	Q I believe it was May. Does that sound correct?A That sounds correct.Q And you haven't been able to read or evaluate
8 9 10	court, as well. So I don't know all of the details of that, but I can't imagine it would be that different than my situation here in North Carolina or my situation when	7 8 9 10	 Q I believe it was May. Does that sound correct? A That sounds correct. Q And you haven't been able to read or evaluate Mr. Bigley's medical records since May?
8 9 10 11	court, as well. So I don't know all of the details of that, but I can't imagine it would be that different than my situation here in North Carolina or my situation when I was in the state of Oregon working in a VA clinic	7 8 9 10 11	 Q I believe it was May. Does that sound correct? A That sounds correct. Q And you haven't been able to read or evaluate Mr. Bigley's medical records since May? A Nothing other than what I had at that time,
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8 9 10 11 12 13 14 15 16	court, as well. So I don't know all of the details of that, but I can't imagine it would be that different than my situation here in North Carolina or my situation when I was in the state of Oregon working in a VA clinic two summers ago. So the short answer to your question is, I don't know all the details of the arrangements there in Alaska, but the other part of the answer is I can't	7 8 9 10 11 12 13 14 15 16	 Q I believe it was May. Does that sound correct? A That sounds correct. Q And you haven't been able to read or evaluate Mr. Bigley's medical records since May? A Nothing other than what I had at that time, correct. Q And if I tell you that Mr. Bigley has been in jail ten times since May, but prior to that he had much less contact with police, what do you think about
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1 State wishes to provide for Mr. Bigley, which at this 1 of flesse patients from neuroleptics? 2 time / believe is only Rispetal Consta and increasing A Successfully enduced. I was - I was not in 3 that dosage to 50 milligrams, is killing - would kill in either setting to successfully withdraw medications 4 believe there's - well, there - yes and completely, due to the length of time tor the 6 yes. There are two answers to your question. ferm or acutely. And the broader answer to that 1 offects. you know, for the length of time that ea my 11 effects. patient completely off medicine wait a minute. 12 So I believe that Risperdal is no less is 13 bazardous than any of the older medications. And in tab better, and then he wanted to go back on it. And that 14 fact, there are quita a faw dectors who share the motion that Risperdal has been misclassified as, the low dift that he had been on - well, lower 15 believe it a drught at will kill Mr. Bigley? Yes. it how something was to realing		Page 170		Page 172
2 A Successfully reduced. I was - I was not in a cither setting to successfully withdraw medications of the setting to successfully withdraw medications a cither setting to successfully withdraw medications a completely, due to the length of time or the chronicity of treatments for many of these patients, completely, due to the length of time or the chronicity of treatments for many of these patients, completely unique case. And I did not take any patient completely off medicine - wait a minute. 1 in terms of what we know from the life-shortening equestion is, yes, it kills him in the long term, just in terms of what we know from the life-shortening opinion that Risperdal is no less in azaroous than any of the older medications. And in the diler drugs. I remember one. I remember one younger in terms of the idler medications. And in the was something that was his choosing. He understood the firsk of it. So with as been micical stifted as the cithsk cit. So with his consent. J put him back for the low dose that he had been on - well, lower in terms of thim fitters or thain hazards relative to the older drugs. 2 Q Do you think that Mr. Bigley is capable of informed consent? I mease settings was to really try and educe risks it can the inderstand the risks of it mores that the coust is and benchist of a diternatives to medication. 1 A Yes. With (indiscernible) consent of both the bad outcomes that are occomplish in terms of the additional physical medications. 7 MR. GOTTSTEIN: Yes. GRACE JACKSON, MD it testified teleptonically as follows on: metally it in both caronina prison, I believe yas addit at the EDRECT ELSAMINATION is either COURT: Wortmed, Yes way assist as completend, indue haprimo, I would not thage theopilion. I would noc ha	1	State wishes to provide for Mr. Bigley, which at this	1	of these patients from neuroleptics?
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18 basis of brain effects or brain hazards relative to 19 successfully reduced and tried to withdraw. 19 the older drugs. But every single case is, you know, very, 20 So to answer your question succinctly, do I Put every single case is, you know, very, 21 believe it's a drug that will kill Mr. Bigley? Yes. Put every single case is, you know, very, 22 It's just a matter of time. Put every single case is, you know, very, 23 Q bo you think that Mr. Bigley is capable of informed consent? 24 A That, I don't know, in terms of the current Page 171 Page 171 Page 173 1 moment in time. I don't know the answer to that, in 1 25 MS. DERRY: No further questions. Thank you. 1 5 MS. DERRY: No further questions. Thank you. 1 6 THE WITNESS: Thank you. 5 7 THE COURT: Mr. Gottstein, do you have any 5 8 redirect? 9 9 MR. GOTTSTEIN: 9 11 testified telephonically as follows on: 12 12 REDIRECT EXAMINATION 13 Q Do you have any reason to c	16	quote, unquote, an atypical or a so-called unusual	16	on the low dose that he had been on well, lower
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1	and was out of the acute period of a risk of, let's	1	BY MR. GOTTSTEIN:
2	say, a withdrawal seizure or a risk of withdrawal	2	Q What would be would there be
3	akathisia, then I would unless that is the case,	3	withdrawals potential withdrawal symptoms from
4	then it is more prudent, I believe, to let things	4	Risperdal Consta?
5	let things ride and to see how alternative	5	A Certainly. What would they be? They could
6	interventions would would actually make a	6	be just about any kind of neurological or behavioral
7	difference and make a hopeful benefit.	7	side effect. I should say just about any kind of
8	Q And what period of time would that acute	8	neurological or behavioral phenomenon that would occur
9	withdrawal period be?	9	while the drug is still being taken, or it could be an
10	A For the most part, or in most cases, you're	10	original symptom.
11	usually looking at the first two to six weeks I think.	11	I should probably just back up and say there
12	It depends on the actual brain elimination, life	12	are two different considerations when a patient is
13	the half life of a brain washout. So every medication	13	coming off or has stopped a mind-altering substance of
14	has a very unique profile, in terms of how quickly the	14	any kind. One is a set of symptoms which are called
15	brain actually clears or metabolizes the drug.	15	rebound, and that usually refers to the reappearance
16	For Haldol, for instance, Haldol washes out	16	of the initial problems for which the drug was
17	of the brain very slowly. And detectable levels of	17	started.
18	Haldol may still be in the brain tissue for four to	18	So for instance, if you're giving a patient
19	six weeks after the last dose, even though the blood	19	with a headache an anti-migraine medication, and that
20	level might be showing zero.	20	person stops taking those medicines very acutely, very
21	Same with Consta, with Risperdal Consta, it	21	quickly, and the headache returns, we would call that
22	can actually have a very long washout. So these are	22	return symptom a rebound headache.
23	things that a doctor has to think about when he or she	23	Now, different scenario. Imagine we're
24	says the patient is now having the return of the	24	giving a person a medicine for an ulcer, and as a side
25	underlying illness instead of a withdrawal effect from	25	effect, the person develops a headache. Now we take
	Page 175		Page 177
1	previous medication that's still in the system, but in	1	the person off the ulcer medication and the headache
2	the system in low amounts.	2	comes back, we would call that a withdrawal headache
3	So I usually you know, you have to look at	3	because it's actually a new symptom that was not part
4	the individual medication. But for most medications,	4	of the original treatment. We were trying to treat an
5	the acute withdrawal phase is usually in the first two	5	ulcer, but the headache came.
6	to six weeks.	6	Either way, what a doctor has to think about
7	Q So could you explain what you mean by	7	when he or she is seeing a new problem in the setting
8	withdrawal symptoms?	8	of a drug being stopped is whether or not it
9	A Sure. Withdrawal symptoms	9	represents a return of the original condition or
10	MS. POHLAND: Objection, relevance. Could we	10	whether it represents a brand-new problem that the
11	limit this to the medications being potentially	11	medicine itself has initiated.
12	authorized for Mr. Bigley?	12	And whether a person is seeing rebound or
13	THE COURT: (Indiscernible.)	13	withdrawal symptoms, either one of those can be
14 15	MR. GOTTSTEIN: She is describing the	14	exacerbated or enhanced by the prior use of psychiatric drug treatments.
15	acconting offects of these drugs and with drawed for	15	DSVCmatric drug treatments.
16	scientific effects of these drugs and withdrawal from	16	
16 17	the drugs. I think it's part of the (indiscernible)	16 17	Q So are you saying that psychotic symptoms
17	the drugs. I think it's part of the (indiscernible) are and what the effects of the drugs are, side	17	Q So are you saying that psychotic symptoms appearing after withdrawal could be a result of the
17 18	the drugs. I think it's part of the (indiscernible) are and what the effects of the drugs are, side effects.	17 18	Q So are you saying that psychotic symptoms appearing after withdrawal could be a result of the withdrawal?
17 18 19	the drugs. I think it's part of the (indiscernible) are and what the effects of the drugs are, side effects. MS. POHLAND: But, Your Honor, the only ones	17 18 19	Q So are you saying that psychotic symptoms appearing after withdrawal could be a result of the withdrawal? MS. POHLAND: Objection, leading.
17 18 19 20	the drugs. I think it's part of the (indiscernible) are and what the effects of the drugs are, side effects. MS. POHLAND: But, Your Honor, the only ones that are relevant are the ones that Mr. Bigley might	17 18 19 20	Q So are you saying that psychotic symptoms appearing after withdrawal could be a result of the withdrawal? MS. POHLAND: Objection, leading. THE COURT: Overruled.
17 18 19 20 21	the drugs. I think it's part of the (indiscernible) are and what the effects of the drugs are, side effects. MS. POHLAND: But, Your Honor, the only ones that are relevant are the ones that Mr. Bigley might potentially be prescribed, that Dr. Khari is seeking	17 18 19 20 21	Q So are you saying that psychotic symptoms appearing after withdrawal could be a result of the withdrawal? MS. POHLAND: Objection, leading. THE COURT: Overruled. THE WITNESS: What I'm saying is when a
17 18 19 20 21 22	the drugs. I think it's part of the (indiscernible) are and what the effects of the drugs are, side effects. MS. POHLAND: But, Your Honor, the only ones that are relevant are the ones that Mr. Bigley might potentially be prescribed, that Dr. Khari is seeking to prescribe for Mr. Bigley, not every drug that ever	17 18 19 20 21 22	Q So are you saying that psychotic symptoms appearing after withdrawal could be a result of the withdrawal? MS. POHLAND: Objection, leading. THE COURT: Overruled. THE WITNESS: What I'm saying is when a person is taken off of an anti-psychotic medication
17 18 19 20 21 22 23	the drugs. I think it's part of the (indiscernible) are and what the effects of the drugs are, side effects. MS. POHLAND: But, Your Honor, the only ones that are relevant are the ones that Mr. Bigley might potentially be prescribed, that Dr. Khari is seeking to prescribe for Mr. Bigley, not every drug that ever was.	17 18 19 20 21 22 23	Q So are you saying that psychotic symptoms appearing after withdrawal could be a result of the withdrawal? MS. POHLAND: Objection, leading. THE COURT: Overruled. THE WITNESS: What I'm saying is when a person is taken off of an anti-psychotic medication I'll just use the word neuroleptic. That's I think
17 18 19 20 21 22	the drugs. I think it's part of the (indiscernible) are and what the effects of the drugs are, side effects. MS. POHLAND: But, Your Honor, the only ones that are relevant are the ones that Mr. Bigley might potentially be prescribed, that Dr. Khari is seeking to prescribe for Mr. Bigley, not every drug that ever	17 18 19 20 21 22	Q So are you saying that psychotic symptoms appearing after withdrawal could be a result of the withdrawal? MS. POHLAND: Objection, leading. THE COURT: Overruled. THE WITNESS: What I'm saying is when a person is taken off of an anti-psychotic medication

	Page 178		Page 180
1	psychotic symptoms, manic symptoms, depression, and/or	1	and delayed appearance.
2	anxiety, just as a chemical phenomenon of what the	2	So it is very similar, in terms of
3	medication has actually done inside the brain.	3	withdrawing people from different kinds of
4	Q And would that be true of symptoms such as	4	prescription medications, that one has to be aware of
5	agitation?	5	the possibility that some kinds of effects may not
6	A Certainly. That would be one of the most	6	emerge for perhaps for as long as months or even 12
7	common things to see when a person comes off of any	7	months after the last exposure.
8	mind-altering substance. We could pick any number of	8	What that means basically is the following.
9	classes of medications, whether they were neuroleptics	9	A physician has to pay good attention to what is known
10	or anti-depressants or benzodiazepines, which are	10	about the underlying science and to always be
11	commonly given for anxiety, or anticonvulsants, any of	11	evaluating an individual in the context of their
12	these chemicals as they are leaving the body, washing	12	previous chemical exposures, even if those exposures
13	out of the brain, and as the brain is beginning to	13	happened many months before.
14	revert into a previous level of cellular adaptations,	14	So yes, to answer your question, could
15	any of these kinds of phenomena can begin to appear or	15	withdrawal happen for a long period of time, and
16	worsen at that time.	16	should a person be given the opportunity to get
17	Q So would it be your opinion that someone	17	through this withdrawal period before jumping the gun
18	should be given an extended period of time off the	18	on resuming a medication that will start the whole
19	neuroleptics to figure out where they're at, if that's	19	process over again? Absolutely, that should be a goal
20	a	20	of everyone who is involved in the treatment plan.
21	MS. POHLAND: Objection, calls for	21	MR. GOTTSTEIN: I have no further questions.
22	speculation.	22	THE COURT: Recross?
23	THE COURT: Overruled.	23	MS. DERRY: No, Your Honor. Thank you.
24	THE WITNESS: I think it's I think it's	24	THE COURT: Okay. Thank you, Dr. Jackson.
25	very important.	25	You may hang up.
	Page 179		Page 181
1	Unfortunately, this is an area where the	1	THE WITNESS: Thank you very much.
2	science is probably ahead of the curve, in terms of	2	(Witness excused.)
3	clinical practice.	3	THE COURT: Who are you going to attempt to
4	In other words, people who spend time on the	4	get next?
5	science of these chemical treatments are perhaps in a	5	MR. GOTTSTEIN: Bob Whitaker.
6	different place of understanding or awareness than	6	THE CLERK: This is the clerk. I just wanted
7	most clinicians have had time to be. And that is,	7	to let Judge Morse and the parties know that the JA
8	they are probably	8	advised that if Judge Morse is going to go past 1:30,
9	It's probably more correct to speak about two	9	we have to change court locations down to the basement
10	different periods of withdrawal. There is an acute	10	because of wellness court hearings.
11	phase of how the body accommodates to a medication	11	THE COURT: We're not going past well, I
12	leaving the system, and then there is a longer phase	12	will let you know in advance if we go past 1:30.
13	of what I would call re-equilibration, or sort of a	13	THE CLERK: Thank you.
14	resetting of the body and the brain's thermostat.	14	THE COURT: Let's talk about where we're
15	That resetting of the body and the brain may	15	going. The state wants to cross examine that list of
16	take six to 12 months, if not longer. A very good	16	witnesses, and that's not going to happen today, given
17	example of this is LSD, which is basically, you know,	17	that I could go I have a hearing at 3:30 back in
18	the street drug. And basically LSD was very famous in	18	court. I could go later today here, if other people
19	the '60s for causing flashbacks and an hallucinatory	19	are are able to do that, than I normally would.
20	phenomenon called palinopsia. And a person could	20	If we don't do it today, I'm spending the
21	experience that weeks or months after their last	21	next three well, tomorrow is a holiday, Wednesday,
22	exposure to LSD.	22	Thursday, Friday I am dealing with the resumption of a
23	So we know from many different examples of	23	jury trial, not doing this. I have to get that jury
24	mind-altering substances that the effects of those	24	trial done. I have canceled (indiscernible) matters
25	medicines or chemicals may actually have long-lasting	25	to get that done.

1 So if we if we can set another time, let's 1 cross examine Paul Cornils if th	Page 184
	hat testimony is to be
2 say a week from today, where all of the witnesses who 2 admitted, his written testimony,	
3 were going to be available would be available. Would 3 to.	ý
4 that work? 4 THE COURT: We'll let y	you cross examine everv
5 MS. POHLAND: Your Honor, (indiscernible) the 5 single one of them. I just want	
6 State would like to conclude the hearing today, if 6 MS. DERRY: And then a	-
7 possible. 7 matter, Your Honor, other than	-
8 I think Mr. Gottstein has had notice that he 8 MR. GOTTSTEIN: Do y	
9 was supposed to have these witnesses available for 9 (indiscernible)?	
10 cross for the hearing today if he planned to call 10 MS. DERRY: Oh, no, Mr	r. Gottstein. He wasn't
11 them. Because the State intended to finish its case 11 on my list ever.	
12in chief this morning and did so.12THE COURT: Why don't	t we do this. Why don't
13 THE COURT: (Indiscernible.) How long do 13 we end today's session and have	
14 you do you know how long your cross might be for 14 Wednesday or Thursday. I don	Ç.
15 the total group assuming all of them 15 front of me.	
16(indiscernible)?16We can get on the phone of	once you folks are
17 MS. DERRY: In total, Your Honor? 17 back at your office and look at y	-
18THE COURT: Yes.18Figure out a time, Wednesday, 7	-
19 MS. DERRY: Not more than an hour. That's 19 we will figure out when this nex	
20 all of them. And if we could Mr. Cornils is of 20 My expectation is going to	-
21 the priority, if his testimony is to be admitted, that 21 (indiscernible) Monday. I don't	
22 is the highest priority for me to be able to cross 22 that calendar, but I am going to	
23 examine. 23 got to finish this. And likely	-
MR. GOTTSTEIN: I need to subpoen him. I 24 that will give you some time to	
25 didn't subpoena him. I probably should have. I 25 people are available at 8:30 for	
Page 183	Page 185
1 apologize. I'm not sure I can he no longer works 1 morning.	
2 for Choices, so I 2 And if they aren't available	e, then, you know,
3 THE COURT: (Indiscernible) available to be 3 it is likely depending on the re	
4 subpoenaed? 4 unavailability, it is likely that tes	
5 MR. GOTTSTEIN: Yes, I believe he is. 5 going to be well, it depends w	
6 THE COURT: How did we get to the middle of 6 testimony (indiscernible) affidav	-
7 the hearing and he's not subpoenaed? 7 not available to cross, it is likely	
8 MR. GOTTSTEIN: It's my fault, Your Honor. 8 testimony the direct testimony	y is going to be
9 MS. POHLAND: Your Honor, the State would 9 stricken.	
10 move to strike him as a witness and any proposed 10 MS. POHLAND: Your He	onor, Ms. Derry won't be
11 testimony unless he can be called and be available for 11 available next week. She is goir	-
12 cross examination. 12 for the entire week. I mean, the	-
13 THE COURT: His testimony will be struck if 13 objection that the hearing be cor	
14 he's not available for cross. But I'm not going to 14 be forced to continue emergency	
15 require him to be available by not today. 15 be necessary necessitated by c	
 15 require him to be available by not today. 16 If you call him on the phone today, will he 16 Mr. Gottstein has not 	
16If you call him on the phone today, will he16Mr. Gottstein has not	you do it?
16If you call him on the phone today, will he16Mr. Gottstein has not17take your call?17THE COURT: Why can't	-
16If you call him on the phone today, will he16Mr. Gottstein has not17take your call?17THE COURT: Why can't	n't I do it? Well, I
16If you call him on the phone today, will he16Mr. Gottstein has not17take your call?17THE COURT: Why can't18MR. GOTTSTEIN: He might, Your Honor. I'm18MS. POHLAND: Why ca19not sure I have a current number for him. So if we19can, if that's what you'd like. I m	n't I do it? Well, I
16If you call him on the phone today, will he16Mr. Gottstein has not17take your call?17THE COURT: Why can't18MR. GOTTSTEIN: He might, Your Honor. I'm18MS. POHLAND: Why ca19not sure I have a current number for him. So if we19can, if that's what you'd like. I m20can take you want to take a short break to try20objection remains	n't I do it? Well, I mean, but the
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16If you call him on the phone today, will he16Mr. Gottstein has not17take your call?17THE COURT: Why can't18MR. GOTTSTEIN: He might, Your Honor. I'm18MS. POHLAND: Why can't19not sure I have a current number for him. So if we19can, if that's what you'd like. I m20can take you want to take a short break to try20objection remains21and21THE COURT: I'm not goi22THE COURT: What's the order that the state22you to do anything, but both of you	n't I do it? Well, I mean, but the ing to force either of you were sitting here

1 pleadings. 1 If that submitted one can be turned into a 2 MS. POHLAND: Your Honor, I can perform it. 2 neutral one, it has a greater chance of coming in. 3 But the State's objection remains that if 3 am not commenting on it now, because I haven't 4 Mr. Cottatein was prepared to call these witnesses or 4 it. I have no idea whether (indiscorphia). Mathematical these witnesses or	I
3 But the State's objection remains that if 3 am not commenting on it now, because I haven't	Ι
5	
A Ma Cottation was anonared to call the activity of the first of the state of the first of the state of the s	seen
4 Mr. Gottstein was prepared to call these witnesses on 4 it. I have no idea whether (indiscernible). Mayb	e
5 Thursday, he stated that he wanted to call these 5 it's not.	
6 witnesses and would have them available for cross. 6 All right. Anything else?	
7 The State doesn't believe he should have extra time 7 MS. DERRY: I'm just weighing the pros a	nd
8 because he neglected to fulfill his duties. 8 cons of in insisting that we do (indiscernible),	
9 MR. GOTTSTEIN: Your Honor 9 Your Honor.	
10 THE COURT: I am going to allow him extra 10 THE COURT: Ask what you want, but not	w is the
11 time. So when we get back, we're are you folks 11 time.	
12available just simply by telephone at, let's say, 2:3012MS. POHLAND: Let's why don't we dis	
13 today?13 it at you wanted to (indiscernible) Mr. Cornils;	is
14 And the only purpose of the 2:30 thing is to 14 that correct?	
15figure out when on Wednesday, Thursday, or Friday15MS. DERRY: (Indiscernible.) I'm sorry.	
16we're going to have a status hearing to make sure we16THE COURT: I'm not admitting anything	
17 can I just want you to have a chance to look at 17 not cross examined, with the possible exception	
18 your calendars and make sure that we can give you a 18 former testimony because that is slightly differen	
19chance to get these people here on Monday.19(Indiscernible) whether they're applicable to it. I	f
20 In all probability, this is happening first 20 there is an affidavit or some sort of a	
21 thing Monday morning, and there won't be any further 21 notarized/affidavit that is not backed up by cross	
22 continuances. It will be done Monday. 22 examination, it's not being admitted.	
23MS. DERRY: Yes, Your Honor.23MR. GOTTSTEIN: Excuse me. You mean	n when the
24 MS. POHLAND: Yes, Your Honor. 24 person was available for cross examination?	
25 THE COURT: So let's get on this. We'll be 25 THE COURT: It depends on the it depends	nds.
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1 back and I'm not even going to well I'm not 1 Prior testimony is different than simply an a	ffidavit.
2 even going to go on the record. I'll just put 2 So let's see who's available before we argue	
3 conference call saying when can we I'll have my 3 whether or not something is coming in or not	
4 staff do it, when can we be available Wednesday, 4 But you can assume that you should ge	
5 Thursday, or Friday for 15 minutes to and it can be 5 single one of these people available at the no	-
6 telephonic. It's not going to be here, it'll just be 6 hearing, and there will not be further continu	
7 telephonic, period, to finalize the completion of 7 MR. GOTTSTEIN: Yes, Your Honor	
8 this. Okay. 8 THE COURT: All right. Anything el	se?
9 Is there anything and that will give 9 MS. DERRY: No. Thank you, Your	
10 everybody a little bit of time to sort of regroup and 10 THE COURT: Madame Clerk, you ca	
11 see if there are any thing any other sort of 11 record. We are done for the day.	C
12 evidentiary procedural issues that are still 12 THE CLERK: Thank you. Off record	l.
13 (indiscernible). 13 (Off record.)	
14 I am taking a copy of this. I don't know 14 1:05:41	
15 oh, I know. And that will give the State an 15	
16 opportunity there is some proposed history of 16	
17 history 17	
18 MS. POHLAND: (Indiscernible) look at it. 18	
19The state's going to object because it's more19	
20 argumentative than just a (indiscernible) history. 20	
21 THE COURT: If it's argumentative, it's not 21	
22 coming in. If it's chronological (indiscernible). 22	
23But anyway, I haven't looked at it. But I'm23	
24 willing to have I think it would be helpful to have 24	
25a chronology that is neutral.25	

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1	TRANSCRIBER'S CERTIFICATE	
2	I, Jeanette Blalock, hereby certify that the	
3	foregoing pages numbered 1 through 189 are a true,	
4	accurate, and complete transcript of proceedings in	
5	Case No. 3AN-08-1252 PR, In the Matter of the	
б	Necessity for the Hospitalization of William S.	
7	Bigley, Hearing held on November 10, 2008, transcribed	
8	by me from a copy of the electronic sound recording,	
9	to the best of my knowledge and ability.	
10 11		
12		
	Date Jeanette Blalock, Transcriber	1
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