

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



IN THE SUPREME COURT FOR THE STATE OF ALASKA

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)	
ITMO the Hospitalization of D.G.)	Supreme Court No. S-15100
)	
)	
<hr/>)	
Trial Court Case No. 3AN 13-454PR		

**RESPONSE TO OBJECTION TO BEING
 NAMED AS AN APPELLEE**

Providence Alaska Medical Center (Providence) and Connie Chevalier (Chevalier) object to being named as appellees on the ground that they are not parties to this appeal nor parties to the lower court proceeding.¹ This is not true.

The Petition for Involuntary Commitment for Evaluation (*Ex Parte* Petition), attached hereto as Exhibit A, was signed by Connie Chevalier, who was identified as the Petitioner on page 1. On page 3, Providence is listed as the Petitioner.

The Order On Petition For Involuntary Commitment For Evaluation (*Ex Parte* Order), which is the decision appealed from, attached hereto as Exhibit B, recites that the petitioner is "Providence/C. Chevalier." In contrast, the only substantive participation the Alaska Psychiatric Institute (API) had in the legal proceedings was to notify the Superior

¹ PAMC and Chevalier also filed a Notice of Non-Participation under Appellate Rule 204(g), which is not at issue.

Court D.G. had been discharged, "because the evaluation personnel did not find that respondent met the standards for commitment." Exhibit C.


The Petition begins, "Petitioner, Connie Chevalier, asks the court to enter an order granting this Petition for Involuntary Commitment for Evaluation." Providence and Ms. Chevalier asserting that invoking the authority of the Court to have D.G., transported to API to be confined against his will never created an adversarial relationship is an extremely cavalier attitude towards the "massive curtailment of liberty," such court ordered confinement entails. *Wetherhorn v. Alaska Psychiatric Institute*, 156 P.3d 371, 376 (Alaska 2007).

Providence/Chevalier object that they were not served with process, but it was they who invoked the court's jurisdiction by filing the petition, thereby bringing themselves under the jurisdiction of the court. Service by process was not necessary any more than it is for a defendant serving an answer or any other pleading on a plaintiff.

Since Ms. Chevalier and/or Providence were the petitioner, it is believed Appellate Rule 204(g) required them to be listed as appellees. That they do not want to participate in the appeal caused by their petition is their choice, but does not change their status as a party in the Superior Court.

LAW PROJECT FOR PSYCHIATRIC RIGHTS

By: _____

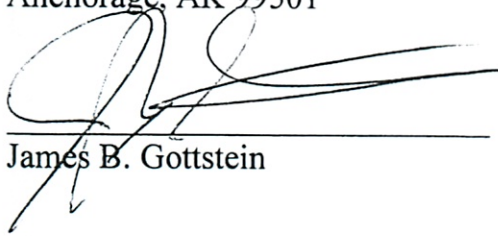

James B. Gottstein, Esq.
Alaska Bar No. 7811100

CERTIFICATE OF SERVICE

I certify a copy of the foregoing was hand delivered April 8, 2013 on:

Robert Dickson, Esq.
Atkinson, Conway & Gagnon
420 L Street, Suite 500
Anchorage, AK 99501

Joanne M. Grace, Esq.
Office of the Attorney General
Statewide Section Supervisor
1031 W. 4th Avenue, Suite 200
Anchorage, AK 99501



James B. Gottstein

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
AT Anchorage

In the Matter of the Necessity
for the Hospitalization of:

D. G.
Respondent.
Date of Birth: 01/20/1988

Case No. 3AN-13-454 PR

**PETITION FOR INVOLUNTARY
COMMITMENT FOR EVALUATION**

Petitioner, Connie Chevalier, asks the court to enter an order granting this
Petition for Involuntary Commitment for Evaluation, and states as follows:

- I read the warning notice on page 3 of this petition.
- I am a (check all that apply):

<input type="checkbox"/> Psychiatrist	<input type="checkbox"/> Counselor
<input type="checkbox"/> Physician	<input type="checkbox"/> Psychologist or Psychological Associate
<input checked="" type="checkbox"/> Psych. RN, MS	<input type="checkbox"/> Other Mental Health Professional
<input type="checkbox"/> Therapist	<input type="checkbox"/> Family Member _____
<input type="checkbox"/> Social Worker	<input type="checkbox"/> Other Interested Person _____

"Mental health professional" means a psychiatrist or physician licensed by the State Medical Board to practice in this state or employed by the federal government; a clinical psychologist licensed by the state Board of Psychologist and Psychological Associate Examiners; a psychological associate trained in clinical psychology and licensed by the Board of Psychologist and Psychological Associate Examiners; a registered nurse with a master's degree in psychiatric nursing, licensed by the State Board of Nursing; a marital & family therapist licensed by the Board of Marital and Family Therapy; a professional counselor licensed by the Board of Professional Counselors; a clinical social worker licensed by the Board of Social Work Examiners; and a person who (A) has a master's degree in the field of mental health; (B) has at least 12 months of post-masters working experience in the field of mental illness; and (C) is working under the supervision of a type of licensee listed in this paragraph.

3. Respondent is currently located at (for example, home, hospital, assisted living facility):
Providence Emergency Department
Respondent arrived on (date) 02/26/2013 at 0900 am pm.

4. Respondent is a minor. Parents/guardian contact information is as follows:
Name(s): _____
Address: _____
Phone: _____

5. A completed MC-105, *Notice of Emergency Detention and Application for Evaluation*
 is attached is not attached. (The MC-105 may only be signed by a peace officer, psychiatrist, doctor, or clinical psychologist. See AS 47.30.705.)

This is Not a Court Order

6. Other pending court cases involving the respondent include (list case description and case number): Unknown

7. For the following reasons, I believe that the respondent is mentally-ill:
The patient has a history of mental illness during childhood, with multiple hospitalizations and diagnoses

Specific mental illness: Mood disorder, NOS; R/O Mood d.o. due to TBI with depressive

"Mental illness" means an organic, mental, or emotional impairment that has substantial adverse effects on a person's ability to exercise conscious control of their actions or ability to perceive reality or to reason or understand; mental retardation, epilepsy, drug addiction, and alcoholism do not per se constitute mental illness, although persons suffering from these conditions may also be suffering from mental illness. (AS 47.30.915)

8. For the following reasons, I believe that as a result of that mental illness, the respondent is gravely disabled or likely to cause serious harm to himself/herself or others:

The patient has verbalized suicidal ideation multiple times since December, with escalation in frequency of suicidal threat over the past 2 days. He made a noose of a belt yesterday, threatening suicide, made a written will, and today threatened suicide in front of both his parents, reaching for a knife. He threatened violence toward his father yesterday as well as several times in the recent past, purporting to "punch him until he is bloody." He sent many texts to his mother yesterday with content related to wishing he were dead, saying goodbye to his dog, and dying at home in bed. He has suffered a traumatic brain injury, is under significant stress with attempts to get help in the military. He refuses mental health intervention, has no insight into his mood problem and requires involuntary hospitalization for his safety.

"Gravely disabled" means a condition in which a person as a result of mental illness (A) is in danger of physical harm arising from such complete neglect of basic needs for food, clothing, shelter, or personal safety as to render serious accident, illness, or death highly probable if care by another is not taken (AS 47.30.915(7)(A)); or (B) will, if not treated, suffer or continue to suffer severe and abnormal mental, emotional, or physical distress, and this distress is associated with significant impairment of judgment, reason, or behavior causing a substantial deterioration of the person's previous ability to function independently. [AS 47.30.915(7)(B)] Note: In *Wetherham v. Alaska Psychiatric Institute*, 156 P.3d 371 (Alaska 2007), the Alaska Supreme Court "concluded that AS 47.30.915(7)(B) is constitutional if construed to require a level of incapacity so substantial that the respondent is not capable of surviving safely in freedom."

"Likely to cause serious harm" means a person who (A) poses a substantial risk of bodily harm to that person's self, as manifested by recent behavior causing, attempting, or threatening that harm; (B) poses a substantial risk of harm to others as manifested by recent behavior causing, attempting, or threatening harm, and is likely in the near future to cause physical injury, physical abuse, or substantial property damage to another person; or (C) manifests a current intent to carry out plans of serious harm to that person's self or another.

9. Persons who have personal knowledge of the above facts are:

Name	Address	Phone
<u>Dr. Silbaugh, 212-3111</u>	<u>PAMC Emergency Department</u>	<u>212-3111</u>
<u>Officer Hostetter, APD</u>		<u>729-7808</u>

This is Not a Court Order

10. For healthcare professionals only:

- The following facility or facilities currently have capacity to accept persons committed for emergency examination and evaluation:
API
- The following transport service is available to deliver the respondent to the facility:
WEKA

02/26/2013
Date

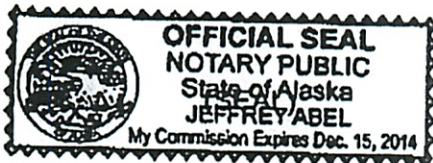
Connie Chevalier
Petitioner's Signature
Connie Chevalier
Print Name of Petitioner
PAMC Psychiatric Emergency Department
Petitioner's Address
Phone: 907-212-2800 Fax: 907-212-2807

I certify that on FEB 26 2013
copies of this form were sent to: AG PD API
CLERK: BIRDIE JONES

Verification or Certification

Verification. [Sign in front of a notary or court clerk. If no notary or court clerk is available, or you do not have ID required by a notary or other official, sign the certification section below.] Petitioner says on oath or affirms that petitioner has read this petition and believes that all statements made in the petition are true.

Subscribed and sworn to or affirmed before me at Anchorage, Alaska on (date) 2/26/13.



Jeffrey Abel
Clerk of Court, Notary Public or other person authorized to administer oaths.
My commission expires: 12/15/14

Certification. [Complete this certificate if no notary or other official is available, or if you do not have the required identification.] Petitioner certifies that all information in this petition is true, and a notary public or other official empowered to administer oaths is not available to administer an oath, or petitioner does not have the ID required by a notary or other official.

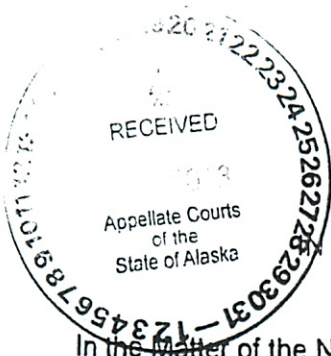
Petitioner's Signature

Warning Notice

A person acting in good faith upon either actual knowledge or reliable information who applies for evaluation or treatment of another person under AS 47.30.700-47.30.915 is not subject to civil or criminal liability. [AS 47.30.815(a)]

A person who willfully initiates an involuntary commitment procedure under AS 47.30.700 without having good cause to believe that the other person is suffering from a mental illness and as a result is gravely disabled or likely to cause serious harm to self or others, is guilty of a felony. [AS 47.30.815(c)]

This is Not a Court Order



THE SUPERIOR COURT FOR THE STATE OF ALASKA
AT ANCHORAGE

RECEIVED

FEB 26 2013

In the Matter of the Necessity
for the Hospitalization of:

PUBLIC DEFENDER AGENCY
ANCHORAGE

D. G.
Respondent.
Date of Birth: 01/20/1988

Case No. 3AN-13-00454PR

ORDER ON PETITION FOR
INVOLUNTARY COMMITMENT
FOR EVALUATION

Petitioner, PROVIDENCE / C CHEVALIER, filed a *Petition for Involuntary Commitment for Evaluation* under AS 47.30.700. The court considered the following:

- Allegations in the petition.
- Testimony on record at courtroom/media # _____ Beg. log # _____
date _____ by the petitioner other persons _____
- Medical records from a healthcare facility or mental health professional reporting on the respondent's current mental and physical condition.
- Screening investigation report previously ordered by the court.
- Other _____

LOCATION OF RESPONDENT

- The respondent is currently being detained at Providence Hospital
The respondent was detained on (date) 2-26-13 at (time) 9:00 am pm.
- or-
- The respondent's current whereabouts are believed to be _____

FINDINGS

1. The court finds there is probable cause to believe the respondent is mentally ill based on: petitioner alleges respondent has a diagnosis of mood disorder, not otherwise specified, rule out mood disorder due to TBI, with depression.

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

- Likely to cause serious harm to himself or herself because
petitioner alleges respondent is actively suicidal

- Likely to cause serious harm to others because

- Gravely disabled because

ORDER

It is ordered that the *Petition for Involuntary Commitment for Evaluation* is GRANTED. It is also ORDERED that:

1. The Department of Health and Social Services or Providence or Designee shall arrange for immediate delivery of the respondent to the following nearest appropriate facility for examination and evaluation of the respondent's mental and physical condition:
 - Alaska Psychiatric Institute PeaceHealth Ketchikan Medical Center
 - Bartlett Regional Hospital Yukon-Kuskokwim Delta Reg. Hospital
 - Fairbanks Memorial Hospital Other _____

[AS 47.30.700; AS 47.30.710; AS 47.30.870; and AS 47.30.915(5)]
2. The respondent shall be notified immediately, orally and in writing, of the rights contained in the *Notice of Rights* (court form MC-405, available from the court clerk or online at <http://courts.alaska.gov/forms/mc-405.pdf>). These notifications and a copy of this order shall be given by:
 - The person or entity currently detaining the respondent
 - Local police _____
 - Alaska State Troopers _____
 - The petitioner
 - Other: API ON ARRIVAL
 - Respondent is a minor. Respondent's parent(s)/guardian shall also be notified of the rights contained in the *Notice of Rights*.
3. The evaluation facility shall accept this order and the respondent for an evaluation period not to exceed 72 hours. Within 24 hours after arrival at the facility, the respondent shall be examined and evaluated as to mental and physical condition by a mental health professional and by a physician. [AS 47.30.710(a); AS 47.30.715]

4. The evaluation facility shall timely file a *Notice of Respondent's Arrival at Evaluation Facility* (court form MC-400) with the court and Public Defender Agency upon arrival of the respondent at the facility. Court form MC-400 is available from the court clerk or online at <http://courts.alaska.gov/forms/mc-400.pdf>. If the respondent arrives at the facility between the hours of 9:00 a.m. and 3:00 p.m., notice is timely if filed no later than 3:30 p.m. on the same business day. If the respondent arrives at the facility between the hours of 3:00 p.m. and 9:00 a.m., or at any time during the weekend or on a holiday, notice is timely if filed no later than 9:30 a.m. on the first business day following the respondent's arrival. Notice shall be by fax to the numbers designated on the MC-400 form.

5. If the respondent cannot be delivered to the designated evaluation facility within 24 hours of this order, the Department of Health and Social Services through its attorney shall file a status report with this court describing:
 - Respondent's current location;
 - Reason(s) for the delay in transporting the respondent;
 - Steps taken by the Department to ensure that continued detention of the respondent at the current location is necessary and no less restrictive alternatives are available; and
 - Whether an alternative treating facility is now being proposed.
 Filing shall take place within the 24 hour period to the court that issued this order and to the Public Defender Agency.

6. The examination and evaluation shall be completed within 72 hours of the respondent's arrival at the evaluation facility. [AS 47.30.715] A petition for a 30-day commitment shall be filed or the respondent shall be released from the evaluation facility before the end of the 72-hour evaluation period (unless the respondent requests voluntary admission for treatment).

7. If at any time during the 72-hour evaluation period the mental health professional conducting the evaluation determines that the respondent does not meet the standards for commitment in AS 47.30.700, the respondent shall be discharged, and the petitioner and court shall be notified of the discharge using court form MC-410. The MC-410 is available from the court clerk or online at <http://courts.alaska.gov/forms/mc-410.pdf>. [AS 47.30.720]

8. The Public Defender Agency is appointed counsel for the respondent in this proceeding. Counsel is authorized access to medical, psychiatric or psychological records maintained on the respondent at the evaluation facility.

9. Other: _____

Superior Court Judge

This matter was considered directly by the undersigned superior court judge. The *Petition for Involuntary Commitment for Evaluation* is granted.

Date and Time _____ Superior Court Judge _____

Type or Print Name _____

Superior Court Master

The Master recommends that the *Petition for Involuntary Commitment for Evaluation* be GRANTED.

2-26-13 345PM

Date and Time

Superior Court Master
JONATHON H. LACK

Type or Print Name

Review by Superior Court Judge

- The Master's order of commitment is approved.
- The Master's order of commitment is not approved. The respondent shall be released immediately.
- It is further ordered:

Date and Time

Superior Court Judge
FRANK PFIFFNER

Type or Print Name

Clerk's Certificates of Distribution

I certify that on FEB 26 2013
at _____ am pm, a copy of the following documents:

- this Order with master's signature
- Petition for Invol. Commitment for Eval.
- Notice of Rights (MC-405)
- Order for Screening Investigation
- Screening Investigation Report with Coversheet (no distribution to petitioner)

were sent to the following persons/entities:

- Petitioner
- Respondent
- Parent/Guardian of Minor Respondent
- PDA _____
- AGO _____
- API to fax (907) 269-7129
- Bartlett Reg. to fax (907) 796-8439
- Fairbanks Mem. to fax (907) 458-5255
- PeaceHealth Med. to fax (907) 228-8333
- Y-K Delta Reg. to fax (907) 543-6099

By Clerk BIRDIE JONES

Clerk's Certificates of Distribution

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

- this Order with judge's signature
- Petition for Invol. Commitment for Eval.
- Notice of Rights (MC-405)
- Order for Screening Investigation
- Screening Investigation Report with Coversheet (no distribution to petitioner)

were sent to the following persons/entities:

- Petitioner
- Respondent
- Parent/Guardian of Minor Respondent
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- Fairbanks Mem. to fax (907) 458-5255
- PeaceHealth Med. to fax (907) 228-8333
- Y-K Delta Reg. to fax (907) 543-6099

By Clerk _____

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
AT Anchorage

In the Matter of the Necessity)
for the Hospitalization of:)
G [REDACTED], D [REDACTED])
Respondent.)

Case No. 3AN-13-00454 PR

NOTICE OF RELEASE

Release After Involuntary Commitment for Evaluation. Respondent was admitted to Alaska Psychiatric Institute for evaluation on 2/26/13 and was discharged from the facility on, 2/28/13 at 1125 hrs.

because the evaluation personnel did not find that respondent met the standards for commitment specified in AS 47.30.700;

because, as specified in AS 47.30.780, the respondent is no longer gravely disabled or likely to cause serious harm as a result of mental illness.

Release After 30/90/180-day Commitment. Respondent was committed for treatment on _____ for _____ days. Respondent was released on _____.

Certificate of Early Discharge. Respondent was committed for treatment on _____ for _____ days. I certify that on _____, respondent was discharged early because:

respondent is no longer gravely disabled or likely to cause serious harm as a result of mental illness.

Other: _____

I request the court to enter an order officially terminating the involuntary commitment.

2/28/13 Rosemary Pavageau
Date Signature

Rosemary Pavageau, Paralegal I API Legal Desk
Print Name and Title