

IN THE SUPREME COURT OF THE STATE OF NEVADA

PHONG T. VU,
Petitioner,
vs.

No.

Electronically Filed
Apr 24 2014 08:52 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

THE SECOND JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
WASHOE; THE HONORABLE CHUCK
WELLER, DISTRICT JUDGE,
FAMILY DIVISION,
Respondents,
and,
RICHARD A. GAMMICK, DISTRICT
ATTORNEY,
Real Party In Interest.

PETITIONER'S APPENDIX

JEREMY T. BOLSER
Washoe County Public Defender
Nevada State Bar Number 4925
JOHN REESE PETTY
Chief Deputy
Nevada State Bar Number 10
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Attorneys for Petitioner

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CODE: 3547

IN THE SECOND JUDICIAL DISTRICT COURT OF
THE STATE OF NEVADA IN AND FOR THE
COUNTY OF WASHOE

IN THE MATTER OF THE EXAMINATION Case No.: FV07-03179A

PHONG VU AKA THANHPHONG VUNGUYEN Dept. No.: D11
DOB: 5/13/75

ALLEGED TO BE A MENTALLY ILL PERSON

PETITION FOR COURT ORDERED INVOLUNTARY ADMISSION

COMES NOW PETITIONER, NICOLE PAVLATOS, M.D.
[] licensed psychologist
[x] psychiatrist [] physician
[] other

pursuant to NRS433A.200 and/or 433A.210 and petitions this Court for the
involuntary court-ordered admission of PHONG VU AKA THANHPHONG VUNGUYEN
residing at the Northern Nevada Adult Mental Health Services. I have
attached and incorporate herein by this reference either my Certificate
of Examining Person, or sworn statement of probable cause, and a copy of
the application made pursuant to NRS433A.160 ("Legal 2000"), if
necessary.

AFFIRMATION

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding and its attachments
do not contain the social security number of any person.

Dated this 29TH day of January 2014

PETITIONER:

By:

NICOLE PAVLATOS, M.D.

1/29/2014
/DATE

1
2 CERTIFICATE OF EXAMINING PERSON
3

4 I NICOLE PAVLATOS, M.D., being first duly sworn, certify as
5 follows:

6 I am the Petitioner in the foregoing Petition for Court
7 Ordered Involuntary Admission. I have examined the person named
8 in the petition as being in need of involuntary admission and
9 alleged to be a person with mental illness; based on that
10 examination, I have concluded that he or she has a mental illness
11 and, as a result of that mental illness, this person is likely to
12 harm themselves or others; furthermore, based on my personal
13 observation of the person alleged to be a person with mental
14 illness and other facts set forth in the petition, including its
15 accompanying documents, the person poses a risk of imminent harm
16 to himself or others; and, in my opinion, involuntary admission
17 of the person alleged to be a person with mental illness to a
18 mental health facility or hospital is medically necessary to
19 prevent the person from harming himself or others."
20

21 

22 NICOLE PAVLATOS, M.D.

23 SUBSCRIBED AND SWORN to before me this 29 day of January.
24 2014.

25 

26
27 Notary Public



**APPLICATION, CERTIFICATION AND MEDICAL CLEARANCE
FOR EMERGENCY ADMISSION OF AN ALLEGEDLY MENTALLY ILL PERSON
TO A MENTAL HEALTH FACILITY**

14-821

Definition of Mental Illness, NRS.433A.115:

As used in NRS 433A.120 to 433A.330, inclusive, unless the context otherwise requires, "mentally ill person" means any person whose capacity to exercise self-control, judgment and discretion in the conduct of his/her affairs and social relations or to care for personal needs is diminished as a result of mental illness to the extent that (s)he presents a clear and present danger of harm to self or others, but does not include any person in whom that capacity is diminished by epilepsy, mental retardation, dementia, delirium, brief periods of intoxication caused by alcohol or drugs or dependence upon or addiction to alcohol or drugs unless a mental illness that can be diagnosed is also present which contributes to the diminished capacity of the person.

I have reason to believe that Phong T. Vu is a mentally ill person as follows.

A person presents a clear and present danger of harm to self or others, if, within the preceding 30 days, (s)he has, as a result of mental illness (Check all that apply):

- ☐ (a) Acted in a manner from which it may reasonably be inferred that, without the care, supervision or continued assistance of others, (s)he will be unable to satisfy the need for nourishment, personal or medical care, shelter, self-protection or safety due to mental illness, and if there exists a reasonable probability that death, serious bodily injury or physical debilitation will occur within the next 30 days unless admitted to a mental health facility pursuant to the provisions of NRS. 433A.120 to 433A.330 inclusive, and adequate treatment is provided.
- ☐ (b) Attempted or threatened to commit suicide or committed acts in furtherance of a threat to commit suicide and if there exists a reasonable probability that (s)he will commit suicide unless (s)he is admitted to a mental health facility pursuant to the provisions of NRS 433A.120 to 433A.330 inclusive, and adequate treatment is provided; or
- ☐ (c) Mutilated self, attempted or threatened to mutilate self or committed acts in furtherance of a threat to mutilate self and, if there exists a reasonable probability that (s)he will mutilate self unless (s)he is admitted to a mental health facility pursuant to the provisions of NRS 433A.120 to 433A.330, inclusive, and adequate treatment is provided,
- ☒ (d) Inflicted or attempted to inflict serious bodily harm on any other person, or made threats to inflict harm and committed acts in furtherance of those threats, and if there exists a reasonable probability that (s)he will do so again unless (s)he is admitted to a mental health facility pursuant to the provisions of NRS 433A.120 to 433A.330, inclusive and adequate treatment is provided.

Describe in detail the behaviors you observed in the person leading you to believe (s)he is mentally ill and a danger to self or others. (Do not give diagnosis to describe behaviors).

On 1-26-14 at approx. 1932 hrs I responded to 2151 Red Blossom Ct for a report of a subject threatening his family members when I arrived on scene I spoke w/ Paul Larson who stated his brother in law, Phong Vu was violent and that he began threatening to murder them. He carries two handguns in his pockets which were removed for safety purposes and he keeps swords in his home. His family is concerned he will harm them as he is unstable and when Phong continued to state that he could murder people even after he was detained. Phong continued to ramble about murder and refused to answer my questions. He was transported to me for an emergency commitment.

I am currently licensed in the state of Nevada as a ☐ physician, ☐ psychologist, ☐ social worker, ☐ registered nurse, ☐ clinical professional counselor ☐ accredited agent of the Department of Human Resources, ☒ an officer authorized to make arrests in the state of Nevada, or ☐ marriage and family therapist.

Current Nevada license number: _____

Badge number: 060

Person completing form: K. Hoots

Date: 1/26/14

Time: 1932

PATIENT NAME: Phong, Vu**433A.165 EMERGENCY ADMISSION: EXAMINATION REQUIRED BEFORE PERSON MAY BE ADMITTED TO A MENTAL HEALTH FACILITY.**

1. Before an allegedly mentally ill person may be admitted to a public or private mental health facility pursuant to NRS 433A. 160, (s)he must:

- First be examined by a licensed physician, physician assistant or advanced practitioner of nursing at a location where a practitioner is authorized to conduct such an examination to determine whether (s)he has medical problems, other than a psychiatric problem which require immediate treatment, and
- If such treatment is required, be admitted to a hospital for the appropriate medical care.

MEDICAL CLEARANCE: MUST BE COMPLETED IN ITS ENTIRETY AND A COPY OF THE EXAMINATION REPORT ATTACHED.

On the basis of my personal examination of this allegedly mentally ill person on 1/26/14 day at 2130 o'clock, a.m./p.m., this person has no medical disorder or disease other than a psychiatric problem that requires hospitalization for treatment.

Name of examining medical professional: Daryl D. Rogers, M.D. Current Nevada license number: 14766
(Print)

Signature: [Signature] (MS)Date: 1/26/14 Time: 2131

CERTIFICATION: Describe in detail the behaviors you observed in the person leading you to believe (s)he is mentally ill and a danger to self or others as described in NRS 433A.115.
I have personally observed and examined this allegedly mentally ill person and have concluded that, as a result of mental illness, this person is likely to harm self or others. My opinions and conclusions are based on the following facts and reasons (Do not give diagnosis to describe behaviors):

Vu Phong brought in by police with homicidal ideation. Apparent to be in possession of a knife and a gun, threatened his family. He reportedly stated "murder" to me, other with inappropriate.

I am currently licensed in the state of Nevada as a ☐ psychiatrist, ☒ psychologist. License #:

☒ A licensed psychiatrist or psychologist is not available. I am a licensed physician. License# 14766

Name of examiner: Daryl D. Rogers, M.D.

Signature: [Signature] (Print)Date: 1/26/14 Time: 2150

DISCHARGE: I have personally observed and examined this allegedly mentally ill person and have concluded that (s)he is not or is no longer a danger to self or others as a result of mental illness. My opinions and conclusions are based on the following facts and reasons:

Person completing form: _____

Signature _____

Date _____

Time _____

INDEX OF EXHIBITS

1. Examining Person's Certificate in Support of Petition
for Court-Ordered Involuntary Admission

2 Pages

EXHIBIT 1

EXHIBIT 1

1
2 CODE: 1680
3
4

5 IN THE FAMILY DIVISIION
6 OF SECOND JUDICIAL DISTRICT COURT OF
7 THE STATE OF NEVADA IN AND FOR THE
8 COUNTY OF WASHOE

9 IN THE MATTER OF THE EXAMINATION OF) Case No. FV07-03179A
10 NAME: PHONG VU AKA THANHPHONG VUNGUYEN) Dept. No. D11
11 ALLEGED TO BE A MENTALLY ILL PERSON)
12)
13)

14 EXAMINING PERSON'S CERTIFICATE IN SUPPORT OF PETITION

15 FOR COURT-ORDERED INVOLUNTARY ADMISSION

16 CERTIFICATION

17 The undersigned () physician, () psychiatrist, or () certified
18 psychologist makes the following summary of findings and evaluation of
19 the alleged mentally ill person.

20 I have carefully examined the above named person on _____,
21 residing at _____,
22 Nevada, and find that the person does () or does not () suffer from a
23 mental illness. The above named person is diagnosed as:
24 _____
25 _____

26 The factual basis for this diagnosis is: _____
27 _____
28 _____
29 _____
30 _____

1 As a result of said mental illness, the person presents a clear and
2 present danger of harm to himself/herself or others and meets one of the
3 criteria of NRS433A.115 as follows:

4 () Sub. Sec. 2(a) Unable to satisfy basic needs.

5 () Sub. Sec. 2(b) Suicidal.

6 () Sub. Sec. 2(c) Self-mutilation.

7 () Sub. Sec. 3 Injury to others.

8 Additional comments (optional):
9
10
11

12 AFFIRMATION

13 Pursuant to NRS 239B.030

14 The undersigned does hereby affirm that the preceding document does not
15 contain the social security number of any person.

16 Signed: _____ Date: _____
17
18
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1 CODE 3980

2
3 IN THE FAMILY DIVISION
4 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
5 IN AND FOR THE COUNTY OF WASHOE
6

7 IN THE MATTER OF

8 Phong Vy

Case No.

9 Alleged to be a Mentally Ill Person.

Dept. No. 11

10
11 **STIPULATION AND ORDER REGARDING**
12 **PETITION FOR INVOLUNTARY CIVIL COMMITMENT**

13 IT IS HEREBY STIPULATED between the Washoe County District Attorney, through
14 his counsel Deputy District Attorney, Blaine E. Cartlidge, and Phong Vy,
15 alleged to be a mentally ill person, by and through her/his counsel of record, Kathleen O'Leary,
16 Chief Deputy Public Defender, that the Petition for Involuntary Civil Commitment :

17 ☒ Should be continued for 1 weeks, ending on 2/6/14,
18 good cause for which exists because: ☒ the patient's recent arrival has not afforded adequate
19 evaluation time and treatment plan development; ☐ the patient cannot meet minimum basic
20 needs but should improve shortly with treatment, and commitment would not at this time effect
21 a different or better outcome; ☐ safety concerns for the patient do not at this time demonstrate
22 a need to seek commitment as treatment should shortly improve prognosis; ☐ the patient is
23 improving and may be discharged shortly as soon as placement or other shelter arrangements
24 are finalized; ☐ other: _____

25 ☐ Should be granted and commitment ordered because clear and convincing
26 evidence exists in support of the commitment criteria set forth in NRS Chapter 433A, the court

1 appointed doctors' certificates in support are attached and incorporated herein, and
2 _____ has waived his/her right to appear at hearing.


3 ☐ Should be dismissed for the following reason:

4 _____ The patient is not mentally ill as that term is defined in NRS 433A.115
5 and the patient's condition has been determined as such by the court appointed doctors, whose
6 certificates are attached to this document.

7 _____ The patient does not meet criteria to be held for involuntary commitment
8 pursuant to NRS 433A.115 as determined by the court appointed doctors, whose certificates are
9 attached to this document, and the hospital is unable to discharge the patient.


10 _____ The patient did not appear for examination by the court appointed
11 doctors and no arrangements have been made to allow time for the statutorily mandated
12 examination. NRS 433A.240.

13 ☐ Other Stipulations: _____
14 _____
15 _____
16 _____
17 _____

18 
19 _____
20 Deputy District Attorney


Chief Deputy Public Defender

21
22 IT IS SO ORDERED this 29 day of JANUARY, 2014.

23 
24 _____
25 DISTRICT JUDGE
26

CERTIFICATE OF MAILING AND/OR ELECTRONIC SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the Second Judicial District Court in and for the County of Washoe, and that I deposited for mailing with First Class Postage prepaid at Reno, Nevada, sent by interoffice mail, electronically filed with the Court by using the ECF System which will send a notice of electronic filing, or had picked-up, a true and correct copy of the foregoing document addressed to:

Blaine Cartlidge, Esq.
Deputy District Attorney
Washoe County District Attorney's Office
By Electronic Filing System

Kathleen O'Leary, Esq.
Chief Deputy Public Defender
Washoe County Public Defender's Office
By Electronic Filing System

☒ NNAMHS
By Electronic Filing System

☐ West Hills Hospital
c/o Ryan Herrick, Esq.
By Electronic Filing System

☐ Renown Regional Medical Center
c/o Kim Rowe, Esq.
By Electronic Filing System

☐ St. Mary's Regional Medical Center
c/o Kim Rowe, Esq.
By Electronic Filing System

☐ Other _____

DATED: January 29, 2014


COURT CLERK

COPY

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF
NEVADA

IN AND FOR THE COUNTY OF WASHOE

-oOo-

RE: IN THE MATTER OF THANHPHONG VUNGUYEN

Case No. FV07-03179A

=====

TRANSCRIPT OF PROCEEDINGS

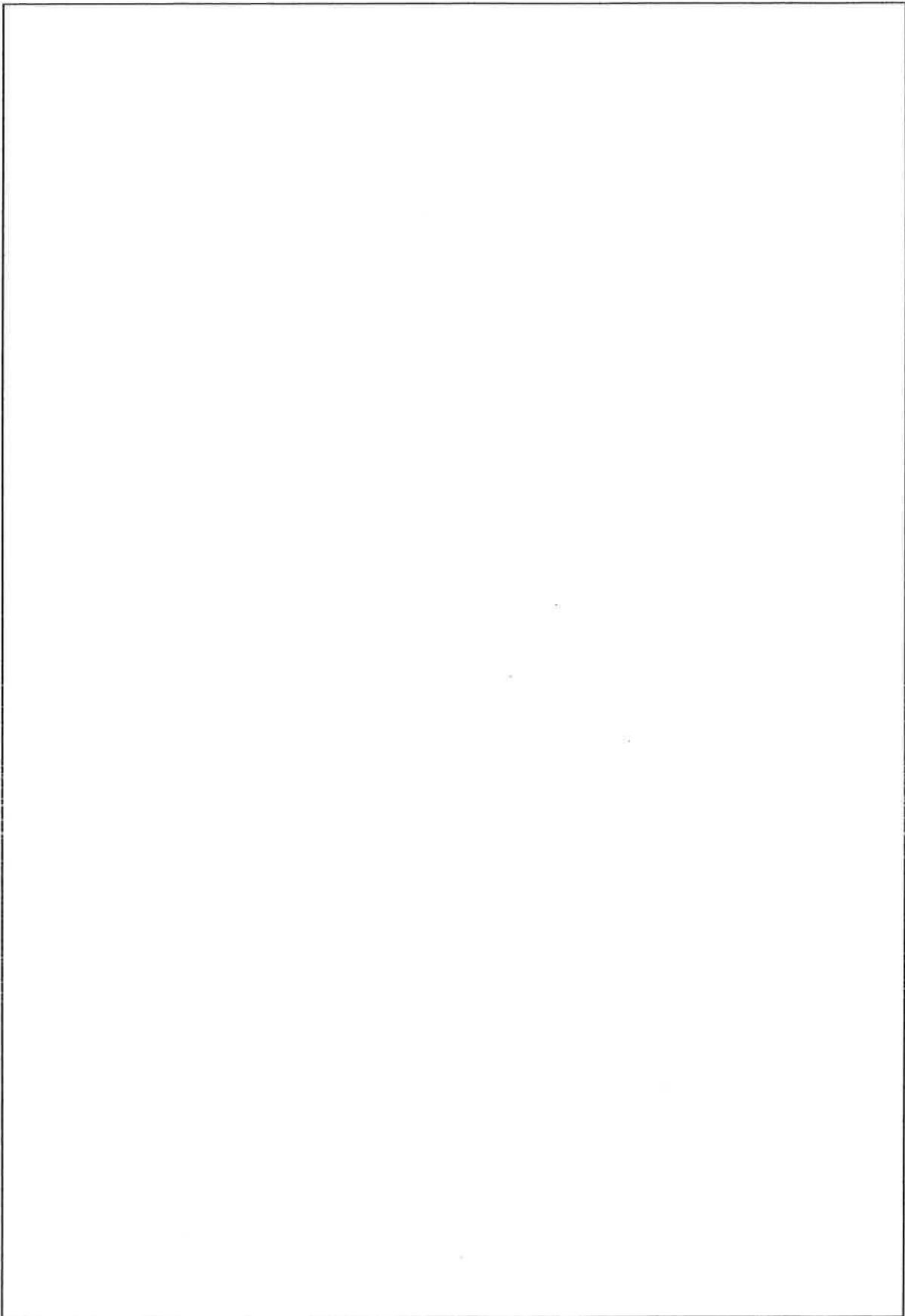
February 6, 2014

Reno, Nevada

SUNSHINE LITIGATION SERVICES

Transcribed By: GAIL R. WILLSEY, CSR #359, CA CSR
#9748

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A P P E A R A N C E S

FOR: THE STATE
BLAINE CARTILAGE, ESQ.
Deputy District Attorney
PO Box 30083
Reno, Nevada 89520

FOR: THANKPHONG VUNGUYEN
KATHLEEN O'LEARY, ESQ.
Deputy Public Defender
350 South Center St., 5th Floor
Reno, Nevada 89520-0027

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None marked

1 **^ ^**

2 RENO, NEVADA, THURSDAY, FEBRUARY 6, 2014,

3 **^ ^**

4
5 THE COURT: We're on the record in the matter
6 of the examination of Thanhphong Vunguyen FV07-03179
7 A. I've reviewed this file and I've also reviewed the
8 file in FV07-03179.

9 Are we ready to proceed?

10 MR. CARTILAGE: Yes, we are.

11 MS. O'LEARY: 03 Judge?

12 THE COURT: It's the same one without the A,
13 the 2007 case.

14 MS. O'LEARY: Oh, okay. I thought you were
15 saying FV03.

16 THE COURT: I may have misspoken.

17 MR. CARTILAGE: Blaine Cartilage, Deputy D A
18 on behalf of the State of Nevada.

19 MS. O'LEARY: And Kathleen O'Leary for Mr.
20 Thanhphong Vanguyen who is present in court, your
21 Honor.

22 THE COURT: I see the two doctors in the back
23 of the room; are they accepted as experts?

24 MS. O'LEARY: We can certainly do so on the

1 record, yes.

2 THE COURT: Okay.

3 Would the two of you please stand, raise your
4 right hand and face the clerk and be sworn.

5 (The witnesses were sworn.)

6 THE COURT: Okay. Thank you.

7 Mr. Cartilage?

8 MR. CARTILAGE: Thank you.

9 I'll start with Dr. Piasecki, if you could
10 approach and take the witness box seat.

11 MELISSA PIASECKI

12 EXAMINATION

13 BY MR. CARTILAGE:

14 Q Good morning.

15 Could you state your name for the record and
16 spell your last name, please?

17 A Melissa Piasecki, P I A S E C K I.

18 Q And are you the court appointed psychiatrist
19 who's had the opportunity to evaluate the patient, Mr.
20 Vunguyen and his chart?

21 A Yes.

22 Q In your opinion, does Mr. Vunguyen have a
23 mental illness?

24 A Yes, he does.

1 Q What is that?

2 A I believe he suffers from a chronic psychotic
3 disorder.

4 Q Your Honor, if I could approach with the
5 court doctor's -- both of their certificates?

6 MS. O'LEARY: I didn't see that yesterday.

7 MR. CARTILAGE: Thank you.

8 MS. O'LEARY: I'm sorry, doctor, was your
9 last answer chronic delusional disorder?

10 THE WITNESS: No. I stated that he suffers
11 from a chronic psychotic disorder.

12 MS. O'LEARY: Thank you.

13 BY MR. CARTILAGE:

14 Q Otherwise N O S?

15 A The best foot diagnosis is Psychosis NOS,
16 Psychosis Not Otherwise Specified.

17 Q Okay.

18 And as result of that mental illness, has Mr.
19 Vunguyen conducted himself in a manner that meets
20 criteria for involuntary admission?

21 A Yes.

22 Q Which criteria would that be?

23 A Inability to meet basic needs.

24 Q Which basic needs would that be?

1 A Need for safety and self protection.

2 Q Could you summarize the Legal 2000?

3 A Yes.

4 Q Do you recall it?

5 A I do.

6 Mr. Vunguyen was admitted the last week of
7 January, and the Legal 2000, which was completed by a
8 Sparks police officer I believe, documented that the
9 family contacted the police because they were
10 concerned about threats that Mr. Vunguyen was making
11 specifically threats to murder them. They were
12 concerned because they believed that he had access to
13 some weapons and he was experiencing auditory
14 hallucinations and repeatedly stating the word
15 "murder".

16 The police, in the document, they stated they
17 removed two box cutters from his person. They
18 believed that there were some swords in his car or
19 truck, and they transported him for emergency
20 admission.

21 Q And in your evaluation, what did you observe?

22 A I observed that Mr. Vunguyen was cooperative
23 and polite throughout the evaluation. I noted that he
24 did have thought processes that were somewhat

1 disorganized and his affect or his expressed emotional
2 state appeared to be somewhat disorganized as well.
3 So he said things and expressed facial expressions
4 that seemed to be inappropriate and somewhat bizarre.

5 He appeared to have some repetitive
6 statements regarding "murder" in order which I had a
7 difficult time understanding. He did state that he
8 thought that others were having -- were trying to harm
9 him. He identified some specific kinds of -- some
10 specific individuals that he thought were assaulting
11 him, and he also had thoughts that maybe one of them
12 had a role with the state that could possibly be
13 influencing his hospitalization.

14 Q Did you learn about an engagement we had with
15 a resident doctor there at the facility?

16 A There was a note in the chart by one of the
17 residents that described an interaction between Mr.
18 Vunguyen and himself.

19 Q And what was that interaction?

20 A What the chart said was that he was talking
21 with or he was in the same room as Mr. Vunguyen. Mr.
22 Vunguyen approached him from across the room and came
23 very close to him six to 12 inches. He described Mr.
24 Vunguyen as having broadened his shoulders, and the

1 resident perceived that as a threatening interaction.

2 Q In your examination, was Mr. Vunguyen
3 verbally cooperative in responding to your questions?

4 MS. O'LEARY: Asked and answered, your Honor.

5 THE COURT: Overruled.

6 BY MR. CARTILAGE:

7 Q Okay.

8 A I believe that he attempted to respond to my
9 questions. His thought processes were somewhat
10 disorganized, and I think that resulted in some
11 nonresponsive answers, but I think it was as a
12 manifestation of mental illness.

13 Q Has Mr. Vunguyen been cooperative in meeting
14 with the treatment team and in group therapy?

15 A I believe he has met with some treatment team
16 members. Others, he has not spoken with. He is not
17 accepting medication, and I believe he is isolating
18 and keeping to himself on the unit.

19 Q And what has been prescribed?

20 A They have prescribed an antipsychotic
21 medication, but I don't believe he has accepted any
22 medication on the unit.

23 Q Would that include Risperdal?

24 A I believe it was Risperdal that was

1 prescribed for him, yes.

2 Q And has the treating team taking any action,
3 as result of the refusal to take medication?

4 A His treating psychiatrist reported yesterday
5 that they had initiated a Denial Of Rights process.

6 Q As result of this mental illness you have
7 discussed and the criteria that you believe he meets,
8 do you -- in your opinion, should Mr. Vunguyen be
9 committed to Northern Nevada Adult Mental Health
10 Hospital for continued treatment?

11 A Yes.

12 Q Is the treatment that he's receiving or is
13 proposed for him the most appropriate treatment?

14 A Yes.

15 Q Is it -- is the facility where he's being
16 treated the least restrictive environment at this
17 time?

18 A Yes.

19 Q That's all the questions I have.

20 CROSS-EXAMINATION

21 BY MS. O'LEARY:

22 Q Okay.

23 Dr. Piasecki, the Legal 2000 completed by the
24 Sparks police officer marked "Danger to others" as the

1 criteria for Mr. Thanhphong Vunguyen to be deprived of
2 his liberty; is that correct?

3 A Yes.

4 Q And you examined Mr. Vunguyen and did not
5 find that he was a danger to others; is that correct?

6 A Correct.

7 Q And that despite the account that was in the
8 Legal 2000 and any other supporting criteria in the
9 chart as well as the interaction with the resident; is
10 that correct?

11 A Because I didn't see clear evidence that
12 there were acts in furtherance of threats, I did not
13 find that he met that criteria of violence towards --
14 yeah, threat of harm towards others.

15 Q Okay.

16 And for the record, Mr. Vunguyen weighs
17 approximately 100 pounds; correct?

18 A I believe the chart said 95 pounds.

19 Q Okay, 95 pounds, and his height is?

20 A It's stated five-feet, five inches.

21 Q Okay.

22 And the resident is Dr. Brooks; is that
23 correct?

24 A No, it's a different resident. I don't have

1 his name in here.

2 Q Do you know the resident?

3 A I do know the resident, but I can't recall
4 his name.

5 Q Is he taller than five-foot five?

6 A Yes.

7 Q Does he weigh more than 95 pounds?

8 A Yes.

9 Q And this interaction was on the unit where
10 there's staff including mental health technicians?

11 A The note that the resident had in the chart
12 stated that he called for a mental health tech to come
13 and intervene or redirect Mr. Vunguyen at that point.
14 So they must have been within distance where they
15 could hear his request.

16 Q Okay.

17 And you're an Associate Dean at the Medical
18 School; do I have your title correct?

19 A Yes.

20 Q And so as part of that position, you know
21 what the resident training is in rotation; is that
22 fair?

23 A I know some of it. I wouldn't say that I
24 know everything that's going on for resident training

1 right now.

2 Q Okay.

3 This particular resident, do you know how
4 long he had been in on an inpatient psychiatric unit
5 working?

6 A I believe he was a second-year resident so
7 he's had many months, six or eight, possibly nine
8 months of inpatient training at this point.

9 Q And was that at this hospital or another
10 hospital?

11 A It would be both at the State Hospital and at
12 the VA Hospital.

13 Q Okay.

14 So you did not find that that interaction
15 with the resident nor the facts, as stated by the
16 police officer, and any other references in the chart
17 support a danger to others?

18 A I was concerned by the report on the Legal
19 2000 but it wasn't clear to me if there were any acts.
20 The police officer wrote that they removed box cutters
21 from his person. I asked Mr. Vunguyen where the box
22 cutters were. He said they were in his pocket, that
23 he used them for doing chores or doing work around the
24 house.

1 I attempted, with Mr. Vunguyen's permission,
2 to call his mother to find out a little bit more about
3 what actually happened at that point. Unfortunately,
4 nobody was at home so I wasn't able to talk to
5 somebody who might have seen him at the time.

6 So it didn't seem as though there was an act
7 in furtherance of a threat but the threats were
8 concerning.

9 Q Well, was there any articulation of an exact
10 threat?

11 A There's conflicting information in the chart.
12 Some parts of the chart say that he was threatening to
13 murder them and others just other parts of the chart
14 say that he was just repeating the word "murder".

15 Q And the chart also indicated that he was
16 repeating the word "red rum"; is that correct?

17 A I didn't see that in the chart but that was
18 presented to me regarding the case.

19 Q Okay.

20 What does "red rum" mean to you?

21 A Red rum is "murder" backwards.

22 Q And is it from a movie?

23 A It's from The Shining..

24 Q So it's something known in popular cultures;

1 fair?

2 A Yes.

3 Q And Mr. Vunguyen indicated that the box
4 cutters were not only for chores but he described them
5 as tools; is that correct?

6 A Yes.

7 Q You asked him whether or not he had any
8 weapons and he denied have any weapons, correct?

9 A He denied having weapons. He stated what
10 other people were identifying as a "sword" was
11 actually a gardening tool.

12 Q Okay.

13 And there's no photograph of the
14 sword/gardening tool?

15 A There's no description of it nor is there any
16 report that anyone actually saw it, it's just believed
17 to have been in his vehicle and I think it was more
18 than one but I'm not sure how many.

19 Q Okay.

20 So there's absolutely no evidence of Mr.
21 Vunguyen using a box cutter or a sword to menace
22 physically anybody, is there?

23 A No. The only mention is that he had box
24 cutters on his person and swords in his vehicle.

1 Q Okay.

2 Now, from your -- how long did your interview
3 with Mr. Vunguyen last?

4 A Probably 15 minutes combined with Dr. Lewis'
5 interview.

6 Q And you asked a lot of questions. Then Dr.
7 Lewis asked several questions and then you went back
8 revisited a few matters with Mr. Vunguyen; is that
9 correct?

10 A I believe so, yes.

11 Q Okay.

12 And as you said, he consented to allow you to
13 call his family; correct?

14 A His mother, yes.

15 Q Okay.

16 And from that interview, we learned that Mr.
17 Vunguyen was living with his mother, his
18 brother-in-law and his sister all together in one
19 house in Sparks, correct?

20 A Yes.

21 Q And that he did have concerns that both his
22 sister and brother-in-law had gambling problems and
23 were pressuring his mother unfairly; is that correct?

24 A My recall is that he felt threatened by his

1 sister and his brother-in-law, that both he and his
2 mother were being targeted by them for -- and it
3 wasn't clear if it was -- if they wanted his money.
4 He used the word they were "assaulting" him.

5 Q Well, let's go back and revisit this.

6 In fact, Mr. Vunguyen told us that there are
7 family problems and that his sister and brother-in-law
8 gamble and ask him and his mother for money; do you
9 recall that?

10 A Yes.

11 Q Okay.

12 Later in the interview, he talked about the
13 fact that his nephews, at the request of their mother,
14 his sister, threatened and assaulted him; is that
15 correct?

16 A He did state that his nephews, especially an
17 older tall nephew, was assaulting him, but he also
18 described, in a not very organized way, a sense of
19 threat from his sister and his brother-in-law.

20 Q Okay.

21 And earlier, you said that he had concerns
22 about his family being involved in the state. In
23 fact, Mr. Vunguyen told us that his brother-in-law
24 worked for the State; correct?

1 A Yes. His brother-in-law worked for the
2 State. I asked him if he thought that his
3 brother-in-law was somehow involved in his current
4 situation at the hospital, and he responded in a very
5 equivocal manner which made me think that he did have
6 those concerns.

7 Q Which would be reasonable given that the
8 family called the police and the brother-in-law is one
9 of the people he was living with; correct?

10 A I think it's a question of interpretation if
11 it's reasonable or not. In the context of the other
12 perceived threats, my conclusion was that this
13 represented an extension of fearful beliefs that may
14 represent paranoid delusions.

15 Q Okay.

16 But it's not necessarily an unreasonable
17 belief that if your family calls the police to your
18 home and you leave in handcuffs with the police, that
19 maybe your family were involved in your
20 hospitalization?

21 A That would be a -- correct, that would not be
22 an unreasonable belief.

23 Q Okay.

24 And that's basically what happened; correct?

1 A Yes.

2 Q Okay.

3 Now, Mr. Vunguyen denied any use of drugs and
4 in fact, his drug screening was negative, upon arrival
5 at the hospital; correct?

6 A Yes.

7 Q He said he infrequently drinks alcohol saying
8 only now and then; is that correct?

9 A Yes.

10 Q He admitted to smoking cigarettes and knowing
11 that that was a vice?

12 A Yes.

13 Q Okay.

14 Now, there was information in the chart from
15 the social worker that indicated that Mr. Vunguyen's
16 mother was willing to provide an apartment for Mr.
17 Vunguyen, upon his discharge from the hospital, and
18 would provide a key to that apartment at discharge;
19 correct?

20 A My understanding is that she's already made
21 those arrangements and that the address and the key
22 are available for when he's discharged.

23 Q Okay.

24 So he would have a safe place to live

1 presumably?

2 A Yes.

3 Q And when he came into the hospital, the
4 property records in the chart indicated that there was
5 \$264 in cash, and he had both a B of A card and a
6 Wells Fargo Visa; is that correct?

7 A Yes.

8 Q And you also asked him about bank accounts?

9 A I did.

10 Q And he said he had several hundred dollars in
11 his own bank account and he had another account with
12 his mother where there was additional monies; correct?

13 A Yes.

14 Q So if he's leaving the hospital with an
15 apartment secured presumably for first month's rent
16 paid for and \$264 in cash and access to additional
17 monies, would it be your opinion that that's
18 sufficient to meet his basic needs for food,
19 nutrition, housing and shelter?

20 A Yes.

21 Q Okay.

22 Now, you also testified that Mr. Vunguyen was
23 cooperative and polite during your interview; correct?

24 A Yes.

1 Q And that your review of the charts suggested
2 that he does some self-isolating?

3 A Yes.

4 Q Which means he is not engaging other people,
5 that he's pretty much keeping to himself?

6 A Yes.

7 Q And that is common among people who have a
8 mental illness?

9 A Yes.

10 Q And would you agree with the principle that
11 people with a mental illness have the right to be in
12 our community even if they're psychotic and not taking
13 medicines, so long as they're not a danger to
14 themselves or other people?

15 A Yes.

16 Q So you didn't find any danger to others. He
17 can meet his basic needs for shelter and food. He
18 indicated -- in fact, you asked him in detail what his
19 grocery shopping list would be; correct?

20 A Yes.

21 Q And it's not usual that we hear vegetables
22 included on this list, is it?

23 A Vegetables and three-dollar beef.

24 Q Okay.

1 So he included vegetables?

2 A Yes.

3 Q And you asked him how he would cook, and he
4 said in a pan or grill and that's how he would cook
5 the meat; correct?

6 A Yes.

7 Q So other than the fact that his family had
8 him transported to the hospital on a basis that you
9 have eliminated as a concern for -- in criteria for
10 his hospitalization, now you're saying he can't meet
11 his own needs for safety and self protection, yet this
12 is a man who would have a place to go. He's
13 self-isolating. He can grocery shop and has not
14 demonstrated that he has engaged in any threatening --
15 has not engaged in any acts of threatening behavior to
16 anybody at all and certainly nobody outside his
17 family; correct?

18 A Correct.

19 Q Now, Mr. Vunguyen did have a previous
20 hospitalization in 2007?

21 A Yes.

22 I think I need to amend my last response. I
23 think when I said correct, I wasn't taking into
24 account the psychiatry resident who interpreted Mr.

1 Vunguyen's behavior as threatening. So in addition to
2 his family, there was another person who found him
3 threatening.

4 Q Okay.

5 However, when you reviewed the chart, six to
6 12 inches away from a resident on the unit, did you
7 view that as threatening behavior, in your review?

8 A I think there's two sides to it. One is --

9 Q But I'm going to ask your opinion.

10 A Okay. I did not think that that behavior
11 clearly was evidence of an act in furtherance of a
12 threat.

13 Q Okay.

14 And in your experience in both reviewing
15 charts and meeting the patients at Northern Nevada
16 Adult Mental Health Services, you're aware that
17 sometimes the only time patients can get literally
18 time and a few words with their doctor is to approach
19 them on a unit closely to try and speak to them; is
20 that fair?

21 A Although I don't think residents typically
22 interpret that as threatening, yes, that's true that
23 sometimes patient do approach their doctors on the
24 unit.

1 Q Doctors on the unit are pretty busy; correct?

2 A They are.

3 Q And patients, in some cases, just need to
4 talk to their doctor; correct?

5 A That's true.

6 Q Yet the only scheduled time is in a treatment
7 team when there's 12 or more people in a room; is that
8 correct?

9 A I don't know how they arrange their time to
10 meet with patients.

11 Q Okay.

12 And you don't know whether this doctor is
13 particularly sensitive to patients coming to speak to
14 him more directly, do you?

15 A I don't, no.

16 Q And in fact, that's the purpose of training
17 and residency is to see how doctors respond to these
18 situations, isn't it?

19 A Yes.

20 Q Okay.

21 In fact, Mr. Vunguyen is well aware that he's
22 not a physically large person; correct?

23 A Correct.

24 Q And he accurately stated that his

1 brother-in-law who is over six feet and around 200
2 pounds, was physically intimidating to him; correct?

3 A Yes.

4 Q And as a result, he wasn't going to engage
5 with his brother-in-law because he said it's obvious
6 that I'm not as big as he is; correct?

7 A Correct.

8 Q And so he's probably accurately assessing
9 situations?

10 A Yes.

11 Q So again, people can -- well, you also
12 testified, Doctor, that the staff indicated that they
13 were initiating a Denial Of Rights; is that correct?

14 A Yes.

15 Q And from your review of the chart, is there a
16 basis for a Denial Of Rights, other than the fact that
17 Mr. Vunguyen is refusing medication?

18 A Well, the chart doesn't include the Denial Of
19 Rights paperwork. So I don't have much information
20 about how -- what they've identified as the basis for
21 Denial Of Rights. Doctor Pavlatos didn't talk much
22 about that yesterday when we met with her so it's just
23 unclear to me what their basis is.

24 Q Okay.

1 But what would a basis for Denial Of Rights
2 be?

3 A Typically, the basis for Denial Of Rights for
4 involuntary medication would be risk of harm to self
5 or others on the unit.

6 Q On the unit, no danger to himself on the
7 unit; correct?

8 A There's --

9 Q That you could see in the chart?

10 A The only concern that was in the chart was
11 that Mr. Vunguyen sometimes spent extended periods of
12 time in one position, and they were worried that he
13 might develop a blood clot or something like that but
14 that concern went away after he complied with a
15 request to get up and move a little bit every hour.

16 So it was the only concern that I saw in the
17 chart about his physical well-being based on his own
18 behavior.

19 Q And the only dangerous behavior on the unit
20 that's been charted is this interaction with the
21 resident; correct?

22 A Correct.

23 Q Which, in your opinion, probably isn't
24 dangerous; correct?

1 A In my opinion, I don't interpret what I saw
2 in the chart as an act in furtherance of a threat.

3 Q Okay. I finally remembered where I was
4 going.

5 So Mr. Vunguyen has one previous
6 hospitalization in 2007; correct?

7 A Yes.

8 Q In that Legal 2000, which we know are not
9 always reliable, suggests that he was depressed and
10 suicidal; correct?

11 A Yes, and I thought there might have even been
12 a suggestion that he had made a suicidal attempt or
13 gesture.

14 Q Okay.

15 The Legal 2000, which the court has available
16 to it, says, "The patient cut wrists today and is now
17 refusing to talk. His family told me he's been
18 increasingly withdrawn, depressed, socially isolated
19 over the last week and that today he acted different
20 screaming and crying."

21 Is that what you recall?

22 A That's what I remember, yes.

23 Q Okay.

24 No indication of what he cut himself with,

1 how deep the cut was, whether it required medical
2 attention; correct?

3 A Correct.

4 Q And it appears, from the record, that he was
5 in fact discharged within a week and we never saw him;
6 is that correct?

7 A Correct.

8 Q Were you doing this in 2007, I don't recall?

9 A I was, yes.

10 Q So the fact that Mr. Vunguyen has been living
11 in the community from 2007 to 2014 with no
12 interactions with the mental health system, no other
13 hospitalizations that we're aware of that amounted to
14 a proposal for a civil commitment, would that suggest
15 that he's pretty stable?

16 MR. CARTILAGE: Objection, assumes facts not
17 in evidence regarding interaction with the mental
18 health system.

19 MS. O'LEARY: Well, --

20 THE COURT: I'll overrule the objection. I
21 thought the question was okay.

22 BY MS. O'LEARY:

23 Q Okay.

24 A If he's been in Northern Nevada or Nevada

1 during that time, that would suggest that he's not
2 required involuntary hospitalization during an
3 extended period of time.

4 Q Okay.

5 And the Northern Nevada Adult Mental Health
6 Services part of their chart will indicate how many
7 episodes somebody has had with the agency; is that
8 correct?

9 A Yes.

10 Q And those episodes refer to any contact with
11 the agency, inpatient, outpatient, counseling,
12 anything?

13 A I'm not familiar with that part of the chart
14 where they track episodes for all contacts.

15 Q But you've seen that referenced in the chart?

16 A What I've seen in the chart is how many past
17 hospitalizations. I don't remember seeing episodes in
18 the way that you've just described.

19 Q Okay.

20 You didn't see anything to suggest that he
21 had contact with Northern Nevada Adult Mental Health
22 Services?

23 A Correct.

24 Q Dr. Piasecki, you specifically asked Mr.

1 Vunguyen if he needed to take any steps to be safe; do
2 you recall that?

3 A Yes.

4 Q And he said, "I try to be reasonable."

5 A Yes.

6 Q Okay.

7 Thank you. I have nothing further.

8 MR. CARTILAGE: A couple of follow up?

9 THE COURT: Yes.

10 REDIRECT EXAMINATION

11 BY MR. CARTILAGE:

12 Q So who supplies -- up until this recent
13 hospitalization, who supplied Mr. Vunguyen's housing?

14 A He was living with his mother and his sister.
15 This is by his report from 2011 to the present time.

16 Q And who supplies his income, his money?

17 A He has some income that he jointly accesses
18 or some funds that he has access to with a joint
19 account with his mom and then he has his own funds. I
20 think he said he was not receiving disability so I'm
21 not quite sure what the source of income is.

22 Q Is it reasonable that it's his mother's money
23 that they put into his own account?

24 MS. O'LEARY: Your Honor, calls for

1 speculation.

2 THE COURT: Sustained.

3 BY MR. CARTILAGE:

4 Q Who cooked for Mr. Vunguyen?

5 MS. O'LEARY: Again, calls for speculation,
6 your Honor.

7 THE COURT: We don't know.

8 THE WITNESS: I'm not sure who cooked in the
9 family. I asked him quite a number of questions about
10 how he would prepare meals on his own, but I'm not
11 sure what happens in his mom's home.

12 BY MR. CARTILAGE:

13 Q Was Mr. Vunguyen quite organized and
14 responsive in details about -- in response to your
15 questions about how to cook, how to shop?

16 A He did not have organized thoughts and it
17 required several questions rephrased in order to get
18 the information about how he would get his food and
19 what he would do with it.

20 Q What's your understanding of why his mother
21 would obtain an apartment for Mr. Vunguyen?

22 A My understanding is that the family is very
23 worried about their safety. I believe they've
24 attempted to set limits that he would no longer come

1 into the family home. That if he needs to come
2 collect his things, that would be possible on a
3 one-time basis but they will not have further contact
4 with him.

5 Q You stated that Mr. Vunguyen met criteria for
6 basic needs namely safety and self protection. Could
7 you summarize how he does not meet those?

8 A So there's a difference between whether or
9 not he appears to have made an act in furtherance of a
10 threat and an individual's perception of whether or
11 not he's threatening to them.

12 So although I've stated I didn't see where
13 has made an act in furtherance of a threat, I do see
14 evidence, clear evidence that people have felt
15 threatened by him. His family has felt threatened by
16 him to the point of calling the police and making
17 arrangements so he will no longer come into their
18 home.

19 A psychiatry resident and his attending have
20 interpreted his behavior on the unit as posturing and
21 coming after the resident. So I believe that the
22 perceptions that people have that he is threatening to
23 them, as well as his inability to communicate in an
24 organized fashion, put him at risk for his own safety

1 and well-being that if somebody feels threatened by
2 him, they may respond in a way that affects his
3 well-being. They may feel as though they need to
4 defend themselves against the threat, and they may not
5 have a mental health tech or the Sparks Police
6 Department. They may not choose those as their
7 interventions.

8 Q You testified earlier that Mr. Vunguyen I
9 believe you said carries swords in his truck or car;
10 is that correct?

11 A The chart has several references, including
12 the Legal 2000, that one of the concerns about safety
13 for the family, at the time of admission, was that he
14 had swords in his vehicle. There wasn't any
15 description or any statement that someone had seen the
16 swords or identified them or put them somewhere.
17 They're just mentioned a couple of times in the chart.

18 Q And did you ask Mr. Vunguyen to describe
19 them?

20 A I did.

21 Q And did he respond quickly, crisply and in an
22 organized fashion?

23 A There's a series of questions regarding this
24 because he did have some disorganized responses. He

1 stated they were gardening tools. He had a difficult
2 time responding directly to questions about them. He
3 did gesture that they were probably about two and a
4 half or three feet long, but he repeatedly stated that
5 these were just gardening tools.

6 Q And why does he carry box cutters?

7 A He stated that they are tools, and he has
8 them because he needs them when he does things around
9 the house.

10 Q And where did the police locate those?

11 A On his person is the only description we
12 have.

13 Q Okay.

14 Do you believe that even without medication,
15 as long as he refuses and the hospital is not
16 involuntary medicating stated him, that Mr. Vunguyen
17 is receiving appropriate treatment at this facility?

18 A Yes.

19 Q That's all the questions I have.

20 THE COURT: All right.

21 Your next witness?

22 MR. CARTILAGE: Thank you Dr. Piasecki. I
23 call Dr. Lewis.

24 THE COURT: Dr. Piasecki can be released?

1 MS. O'LEARY: Yes, your Honor.

2 MR. CARTILAGE: Yes.

3 RICHARD LEWIS

4 EXAMINATION

5 BY MR. CARTILAGE:

6 Q Good morning, Dr. Lewis.

7 Could you state your name on the record,
8 please and spell your last name?

9 A Richard Lewis, L E W I S.

10 Q Are you the court appointed psychologist
11 who's had the opportunity to examine Mr. Vunguyen,
12 evaluate his chart and speak with others about him?

13 A Yes.

14 Q And as a result of your evaluation, did you
15 determine whether he suffers from a mental illness?

16 A Yes.

17 Q What is that?

18 A Psychotic Disorder N O S.

19 Q And how did you arrive at that conclusion?

20 A Primarily from his clinical presentation and
21 the notes in his chart.

22 Q As a result of the mental illness that he
23 suffers then, does he meet criteria today for
24 involuntary admission?

1 A Yes.

2 Q Which criteria?

3 A The safety -- his inability to meet his own
4 safety needs.

5 Q And how does his mental illness cause him to
6 not be able to meet his safety needs?

7 A The key thing to me is that many people have
8 felt intimidated by him, in addition to the family,
9 which by the way, he said he has a court hearing this
10 next week for a Temporary Protection Order. So
11 they've taken --

12 Q Do you know who obtained that?

13 A I don't know who, but I assume -- it's
14 assumption it's someone in the family or the family.

15 Q Okay.

16 A And that would be a major step, if that's the
17 case, if after all these years they feel he's such a
18 threat to them that they would take that step.

19 We have the doctor, as Dr. Piasecki reported
20 on, who felt threatened because of his close proximity
21 and in the chart, there are other staff members who
22 have felt intimidated by him. When he first came in,
23 a mention was made he would bark like a dog and
24 whatever they were reacting to, that was another -- I

1 don't know whether it was one person or a series of
2 staff members but they also felt intimidated by him.

3 So there's quite a few entities that feel
4 intimidated.

5 Q So that impacts his ability to provide for
6 his own safety and to protect himself?

7 A Yes, if he -- my major concern is that if in
8 a mental hospital with trained staff if they feel
9 threatened and intimidated, they are better prepared,
10 better trained to cope with these issues than the
11 general public would be.

12 So if he -- if people in the hospital find
13 him intimidating, I feel that people on the outside
14 who don't have the training and the group support and
15 so forth would likely feel even more threatened. I
16 can't predict that anybody would assault him, but I
17 feel there's certainly a risk of that.

18 Q And could you summarize your understanding of
19 what he -- how he put his family at fear this time?

20 A I don't know specifically other than they
21 felt that their lives were in danger and that they
22 were concerned about the weapons, what they felt were
23 the weapons that he feels are tools, but it must have
24 really scared them if this is the first time.

1 Q Was he reacting to auditory hallucinations?

2 A There were reports that he was having
3 auditory hallucinations.

4 Q And did he threaten verbally his family?

5 A Like Dr. Piasecki what I saw -- he's very
6 disorganized so it's difficult to know exactly what he
7 meant. He may not have meant that he was threatening
8 or dangerous to them but others who know him very well
9 felt that he was a danger to them, a serious danger to
10 them.

11 Q Do swords and box cutters you've heard
12 testimony about strike you odd to have in possession?

13 A Yes and no. The reason for my hesitation on
14 that is that one of the things that I do now is run a
15 small store, it's primarily my wife's, and other
16 vendors up in Virginia City and I have to say a lot of
17 people come in that want cane swords.

18 Before this experience, I would say yes, it
19 strikes me as odd but I have to admit that in and of
20 itself, there are a lot of citizens who like to have
21 these things, you know, it's a surprise to me. So I'm
22 not --

23 Q For decoration or for possession in vehicles
24 and on your person, including box cutters?

1 A Well, box cutters, nobody comes into the
2 store to buy box cutters. I alert all of them and I
3 don't sell them. I don't want to sell anything like
4 that, but I alert them that, "Don't walk around in
5 public with these. They may well be interrupted as
6 concealed weapons and if you buy these, be aware that
7 you better take them right home and just have them for
8 your personal collection but don't carry them in
9 public."

10 It doesn't seem to stop most of them from
11 going ahead and buying them.

12 Q Do you know of any independent income Mr.
13 Vunguyen collects?

14 A Not specifically. I recall that he mentioned
15 that he had \$265, I thought it was \$264 in his account
16 and that there were other resources available to him,
17 just how much and from what sources was never clear.

18 Q From what you've observed and learned, do you
19 believe Mr. Vunguyen can prepare his own food by
20 himself and live by himself, if released today?

21 A Let me put it this way, I found nothing that
22 would lead me to believe that he couldn't do that,
23 that's not where my primary concern is.

24 Q Okay.

1 You've heard -- well, would you summarize the
2 treatment that Mr. Vunguyen is receiving or is
3 proposed for him?

4 A While he's hospitalized, staff would like to
5 attempt to treat his psychosis and that's why a Denial
6 Of Rights is apparently in the works because they
7 don't see him getting better at this point.

8 Q Is the treatment team working with him?

9 A Oh, I think they are.

10 Q Is he attending group therapy?

11 A I don't know.

12 Q Is he safe where he's at, at this time?

13 A I think he's safer. You know, no one can
14 guarantee that another patient might not feel
15 threatened by him and act out but again, these are
16 professionals. They're well trained. They will put
17 people on line of sight. I'm sure he gets more
18 attention than the average patient to ensure his
19 safety and perhaps the safety of others.

20 Q In your opinion, is he receiving appropriate
21 treatment at this time?

22 A Yes.

23 Q Okay.

24 And is it being provided in the least

1 restrictive environment?

2 A Yes.

3 Q That's all the questions I have.

4 THE COURT: Ms. O'Leary?

5 CROSS-EXAMINATION

6 BY MS. O'LEARY:

7 Q Dr. Lewis, Mr. Vunguyen is obviously of Asian
8 descent; is that fair?

9 A I don't know. I'm not an expert on knowing
10 whether or not he's Asian or he's mixed blood or what.

11 Q Did you ask him?

12 A No, I didn't ask him.

13 Q Okay.

14 So Mr. Vunguyen is allegedly five-foot five
15 which I'm supposed to be and I think I'm maybe taller,
16 but he appears to have Asian facial characteristics
17 and long black hair; is that correct?

18 A I don't know. I wasn't really that
19 concerned. He's been apparently in the United States
20 for a very long period of time. That wasn't a concern
21 of mine particularly to assess. I don't know what
22 value I would get out of knowing is he one-percent
23 oriental and if so, what nationality.

24 Q Would it perhaps have informed your analysis

1 of why he might want to have swords?

2 A Not particularly.

3 Q So some people who collect swords do it
4 because they like swords; correct?

5 A As I just said, a lot of people want to have
6 them. I'm not sure as to why they want them.

7 Q Okay.

8 And in your life experience, you've probably
9 seen Asian cultures and movies and such where people
10 prize swords; correct?

11 A So 100 percent of the people that have bought
12 swords from the store are Caucasian.

13 Q I understand that. I'm saying in your life
14 experience, have you seen anything --

15 MR. CARTILAGE: Could the witness be able to
16 finish his answer?

17 THE COURT: I just don't know where we're
18 going. We're going to stereotype over two billion
19 Asians as to liking swords?

20 MS. O'LEARY: Your Honor, we're not
21 stereotyping in this case. There's some weight given
22 to the fact that my client wanted a sword or had a
23 sword, and nobody asked him why. Nobody asked him if
24 it had any meaning to him. Nobody asked him other

1 than the --

2 THE COURT: Well, if you want to inquire
3 about that, that's fine but the idea that all Asians
4 like swords doesn't seem to me to be a very productive
5 area to pursue.

6 MR. CARTILAGE: And there's evidence on the
7 record as to why he has them because they're garden
8 tools.

9 THE WITNESS: He was asked.

10 BY MS. O'LEARY:

11 Q Okay.

12 Did you ask him about gardening and if he has
13 an interest in gardening?

14 A I think it was Dr. Piasecki who asked the
15 question, not me, you know why, and he mentioned --
16 again, he was disorganized, as she said, and it was
17 hard to really understand his answer but he just
18 needed the box cutters as tools, things -- he just
19 needed them and the swords, again, no clear answers as
20 to why.

21 I did ask him later --

22 Q Doctor, there's no question pending.

23 A Okay.

24 Q I have nothing further, Dr. Lewis.

1 REDIRECT EXAMINATION

2 BY MR. CARTILAGE:

3 Q One final question.

4 You indicated that Mr. Vunguyen meets
5 criteria for basic needs, self protection and safety.
6 When you apply that basic need in your normal course
7 every Wednesday and every time you testify, does that
8 include the provision that there does exist a
9 reasonable probability that his death, serious bodily
10 injury or physical debilitation will occur within the
11 next following 30 days unless he's admitted?

12 MS. O'LEARY: Your Honor, it's beyond the
13 scope of cross-examination.

14 THE COURT: It certainly is but I'll allow
15 the question.

16 THE WITNESS: Yes.

17 MR. CARTILAGE: Thank you, that's all the
18 questions I have.

19 MS. O'LEARY: Nothing further, Dr. Lewis.

20 THE COURT: All right. You can step down.

21 Is Dr. Lewis released.

22 MS. O'LEARY: Yes.

23 MR. CARTILAGE: Yes.

24 THE COURT: Any additional witnesses?

1 MR. CARTILAGE: No, that's all.

2 MS. O'LEARY: I have no witnesses, your
3 Honor.

4 THE COURT: Okay. Argument?

5 MR. CARTILAGE: Mr. Vunguyen clearly suffers
6 of a mental illness of a deep psychosis, a chronic
7 psychosis, as testified to by the doctors and because
8 of that illness, he's likely to harm himself because
9 he can't protect himself and he can't provide for his
10 own safety, as a result of his mental illness, that
11 causes him to have auditory hallucinations as well as
12 to believe that by gesturing and speaking in
13 disorganized manners, that he can or that he will, as
14 a result of that, cause people to interact with him
15 either aggressively or to fear him and could end up in
16 harm's way.

17 There's no doubt, according to Dr. Piasecki
18 used the word clear or clearly, to her that -- and Dr.
19 Lewis was as strong. In other words, that there's
20 clear and convincing evidence that especially with the
21 aura of the swords and the box cutters found by the
22 police that the family know about and fear, that Mr.
23 Vunguyen intimidates people, puts his family at fear
24 to the point where they have obtained a T P O and the

1 mother refuses to allow him to live with them again
2 and has found him an apartment and is providing income
3 to him. That's drastic action. There's no evidence
4 that that's ever been done before.

5 Mr. Vunguyen is debilitated and when both
6 doctors say that he meets criteria, they meet, they
7 conclude in their opinion that he meets every element
8 of the criteria that they provide, always have, always
9 do. They are both doctors in their expertise and in
10 their role, as the court appointed doctors, assess and
11 apply each and every criteria and element of every
12 criteria carefully. When they say they conclude in
13 their opinion that the patient meets that particular
14 criteria, they mean that patient meets every element.

15 THE COURT: Counsel, I don't understand and I
16 want to take a moment to talk about your presentation
17 here today. The only reason I'm going to do it is
18 because I've done it before and it doesn't seem to
19 have any effect.

20 If the only question you need to ask the
21 doctors is does the patient meet criteria and your
22 case is over, I could get that, but I've heard
23 hundreds of questions here today, and the criteria are
24 a cookbook. There are only a couple of them and one

1 of them is is there a reasonable probability that his
2 or her death or serious bodily injury or physical
3 debilitation will occur within the next 30 days unless
4 admitted to a mental health facility.

5 Apparently you want me to glean that
6 information, it only came out from you outside the
7 scope of direct examination on your second doctor
8 witness and I frankly don't understand why you don't
9 ask that question. Why you don't look at the criteria
10 and ask the questions.

11 I'm making this record because I've talked to
12 you about it before, and I don't understand. If you
13 don't give me a good case, I can't grant the relief
14 you're wanting and if you're saying the only thing I
15 need to ask them is, "Does he meet criteria," and
16 everything else is assumed, I don't know why we had
17 all the questions about the criteria or anything else.

18 So I have a problem with your presentation of
19 the case. I don't mean to hit it hard. I've done it
20 before and that's the only reason I'm doing it again.
21 I ask -- I urge you to ask questions more directly
22 related to the criteria --

23 MR. CARTILAGE: Is that the only criteria
24 that you note?

1 THE COURT: Excuse me?

2 MR. CARTILAGE: Is that the only element of
3 the criteria that you're noting and speaking to?

4 THE COURT: Yes. I think that you covered
5 the other criteria for -- you know, whatever basis
6 you're going under. Here we're going unable to meet
7 needs and that is one of the criteria. Again, I guess
8 you're expecting me to glean it, and I guess that's
9 okay if that's your style, but I urge you to be more
10 direct in your questioning.

11 MR. CARTILAGE: Thank you.

12 Their conclusion, by clear and convincing
13 evidence, is that he meets criteria and every element
14 of the criteria or they would not conclude that. I
15 need to bring that evidence out in a better way. If
16 that's appropriate to the court, that's appropriate to
17 me. Their conclusion is solid. Their conclusion is
18 sustained by the evidence.

19 The treatment plan includes the group therapy
20 working with the treatment team, being admitted into
21 the mental health facility at NNAMHS and a proposed
22 course of medication that currently Mr. Vunguyen is
23 refusing and the hospital has immediately acted in a
24 Denial Of Rights course to attempt to medicate and

1 treat the deep chronic psychosis. It is the most
2 appropriate course of treatment, according to the
3 clear and convincing evidence of the doctors, as well
4 as NNAMHS serving as the least restrictive
5 environment.

6 The State asks to have Mr. Vunguyen committed
7 according or that the petition be granted. Thank you.

8 THE COURT: Ms. O'Leary?

9 MS. O'LEARY: Your Honor, the State, in this
10 case, is asking you to accept conclusions by doctors
11 that are not supported by any facts and as the court
12 clearly --

13 THE COURT: I'm sorry, I missed a few of your
14 words there.

15 MS. O'LEARY: I'm sorry.

16 The State is asking you to accept conclusions
17 by the doctors that are not supported by facts. He's
18 taking a leap that they gave the opinion that this
19 person, my client, cannot meet his basic needs and
20 therefore, you should also conclude that there exists
21 a reasonable probability of death, serious bodily
22 injury or physical debilitation will occur in the next
23 30 days.

24 THE COURT: Well, over your objection, that

1 is what Dr. Lewis testified.

2 MS. O'LEARY: Dr. Lewis said, "Yes, I
3 considered that," and that was Mr. Cartilage's
4 question to him. "Did you consider, when you were
5 making your opinion, that these things would occur,"
6 and he said "Yes".

7 THE COURT: That's not how I heard it.

8 MS. O'LEARY: Well, we can replay that but
9 did you hear a single description of how that death
10 was going to occur, what the serious bodily injury was
11 going to be, why he thought it was going to occur in
12 the next 30 days or even what the physical
13 debilitation would be?

14 THE COURT: No, I didn't and I just talked to
15 the District Attorney that I don't think that criteria
16 was examined other than briefly and oddly.

17 MS. O'LEARY: And in a conclusory statement
18 not supported by any facts testified to by the doctors
19 and let's talk about what Dr. Lewis testified to.

20 He testified that, "I can't predict that
21 anyone else would assault him," yet that's the only
22 thing he could think of that would be the problem in
23 the community that my client would do something that
24 would provoke somebody else to do something to him but

1 then he undercuts it by saying, "I can't predict that
2 would happen," but under the statute, he has to be
3 able to say by clear and convincing -- and this court
4 has to find that there is clear and convincing
5 evidence that in fact that would occur because that's
6 the only thing that's been suggested to the court. He
7 can meet his needs for shelter. He can meet his needs
8 for nourishment. He doesn't have any physical illness
9 that we've heard of that requires treatment that puts
10 him at risk for not seeking medical care. He's not
11 been -- he's been stable in the community other than
12 one prior hospitalization. We know of nothing else.

13 Addington versus Texas and all of the Supreme
14 Court cases say you have a right to be mentally ill in
15 our community. You can get by with the assistance of
16 others and in this case, the assistance is
17 established. His mother is going to help him with
18 getting an apartment. He has \$264 in cash in his
19 belongings at Northern Nevada Adult Mental Health
20 Services plus two bank accounts. There's absolutely
21 no evidence of the second part of this criteria and
22 the word the is "and" in the statute, it is "and".

23 Now, this whole need for safety and
24 self-protection has to be supported by some factual

1 basis. There's none. There's absolutely none. He
2 has a place to live. He's had some -- there's been
3 testimony about his family who nobody has spoken to.
4 Nobody at the hospital has spoken to them. None of
5 these doctors have spoken to them. Nonetheless, his
6 family is willing to get him an apartment, according
7 to the social worker. He has income and there's
8 absolutely no evidence of the second part of that
9 criteria.

10 Nevada enacted a very strict criteria, your
11 Honor, and we know that other states have more lenient
12 criteria for basic needs. We know other states have
13 different criteria for when petitions need to be
14 brought but in Nevada, our statute is very clear:
15 Death, serious bodily harm and physical debilitation
16 in the next 30 days. There was not a single question
17 about a timeframe. There was not a single fact
18 offered as to what would happen to Mr. Vunguyen who
19 sits here in good physical health, no reason to
20 believe he won't sustain that physical health.

21 The only suggestion is that other people
22 might react but even Dr. Lewis can't predict that that
23 would happen, that's not clear and convincing
24 evidence. Dr. Piasecki offered no reason for that, no

1 factual reason about what would happen in the
2 community that would cause Mr. Vunguyen death, serious
3 bodily injury or physical debilitation, no evidence,
4 your Honor, and for that reason, the State has not
5 sustained its burden of proof.

6 I think Mr. Vunguyen should be discharged.
7 He should be allowed to go to the apartment his family
8 has for him. He should be allowed to lead his life
9 and if he is psychotic in the process, that's okay
10 under our law and our statute. Being psychotic alone
11 is not a reason to take away somebody's liberty, it's
12 only when it amounts to danger to self or others.
13 Danger to others was rejected by the doctors,
14 absolutely rejected. Combed the chart, read the Legal
15 2000, rejected by the doctors, and he doesn't meet the
16 criteria for a basic needs reason for civil
17 commitment, and I would ask the court to dismiss the
18 petition.

19 THE COURT: Thank you.

20 I've already iterated my thoughts about the
21 presentation of the case that I heard today. What
22 I've heard is here's a fellow that has intimidated his
23 family to the point that they are fearful of him and
24 that he has elicited a similar response from staff and

1 I can glean, although I'd rather have more direct
2 evidence, but I can glean that there exists a
3 reasonable probability that a serious bodily injury
4 will occur if he's discharged soon because of the fact
5 that that's how people have reacted to him in recent
6 days. There's nothing to suggest that his behavior
7 has been modified.

8 So I find the clear and convincing evidence
9 supports following findings, that Thanhphong Vunguyen
10 is a person whose capacity to exercise self-control,
11 judgment and discretion in the conduct of his affairs
12 and social relations and to care for his personal
13 needs is diminished as a result of a mental illness to
14 wit; Psychosis N O S, to the extent that he presents a
15 clear and present danger of harm if allowed to his
16 liberty. I find that within the last 30 days he's
17 acted in the following manner:

18 He's had auditory hallucinations and these
19 perceived -- and some of those are paranoid. He's
20 made threats to murder his family. He's carried
21 weapons. It may reasonably be inferred from these
22 acts that without the care, supervision and continued
23 assistance of others, that he will be unable to
24 satisfy his personal needs for self-protection and

1 safety and I'll reiterate that there exists a
2 reasonable probability that a serious bodily injury
3 will occur within the next 30 days unless admitted to
4 a mental health facility and adequate treatment is
5 provided.

6 Alternative courses of treatment within the
7 least restrictive environment have been adequately
8 explored before plea and the recommended treatment is
9 the most appropriate course of treatment in his best
10 interests. Accordingly, the Petition is granted and
11 involuntary admission is ordered. The Clerk is
12 directed to forward a record of this determination to
13 the central repository for Nevada Records of Criminal
14 History for inclusion in the National Instant Criminal
15 Background Check System.

16 Is the notice required under 433A.3901 waived
17 by the parties?

18 MR. CARTILAGE: Waived.

19 MS. O'LEARY: Your Honor, it is waived, and I
20 will continue to make an objection to anything being
21 directed to the registry until Mr. Vunguyen has been
22 hospitalized, pursuant to this order, for 31 days or
23 more. The statute clearly describes that is an
24 Interlocutory Order that the order can only be

1 transmitted when it is in fact a final order and it is
2 Interlocutory at this time.

3 THE COURT: I understand your objection,
4 counsel. I don't read the statute the same way that
5 you do. So the order that I've announced is the order
6 of the court.

7 All right. Thank you both.

8 (The proceedings were concluded.
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1 CODE 3122

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3
4 IN THE FAMILY DIVISION OF
5 THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
6 IN AND FOR THE COUNTY OF WASHOE
7

8 In the Matter of the Examination of:

9 PHONG T. VU,

CASE NO.: FV07-03179A

10 DOB: 05-13-1975

DEPT. NO.: 11

11 Alleged to be a Mentally Ill Person,
_____ /

12 ORDER IN RESPONSE TO REQUEST FOR COURT ORDERED

13 INVOLUNTARY ADMISSION

14 This matter having come before the Court on February 6, 2014, for the application for
15 involuntary hospitalization, all proper notices having been given regarding the above-named
16 alleged mentally ill person who was / was not brought before me for examination. The Court
17 finds by clear and convincing evidence that:

18 A. The petition for involuntary admission should be GRANTED for the following
19 reason(s):

20 X 1. The patient is mentally ill and unable to meet his or her basic needs under
21 NRS433A.115 and NRS 433A.310.

22 _____ 2. The patient is mentally ill and likely to harm himself/herself or others pursuant
23 to NRS433A.115 and NRS 433A.310.

24 X 3. The Court waives the 10-day notification requirement prior to discharge as
25 required under NRS 433A.390.

26 _____ 4. OTHER: _____
27
28

1 B. The petition for involuntary admission should be **DISMISSED** for the following
2 reason(s):

3 _____ 1. The patient is not mentally ill as that term is defined in NRS433A.115.

4 _____ 2. The patient has signed or has agreed to sign a voluntary admission to the
5 hospital pursuant to NRS433A.140.

6 _____ 3. The patient must be provided with a less restrictive alternative placement
7 pursuant to NRS 433A.310(3).

8 _____ 4. The patient does not meet the criteria for involuntary admission as stated in
9 NRS 433A.115 and NRS 433A.310.

10 _____ 5. Patient discharged.

11 _____ 6. OTHER: _____.

12 **THEREFORE, good cause appearing, IT IS HEREBY ORDERED that the Petition**
13 **for Court Ordered Involuntary Admission should be:**

14 _____ DENIED

15 _____ DISMISSED

16 ☒ GRANTED

17 _____ CONTINUED until _____, 2014 at _____.

18 **IT IS FURTHER ORDERED that the above-named person be placed for treatment**
19 **at the following institution:**

20 ☒ NORTHERN NEVADA ADULT MENTAL HEALTH SERVICES

21 _____ WEST HILLS HOSPITAL

22 _____ LAKE'S CROSSING CENTER

23 _____ RENOWN MEDICAL CENTER

24 _____

25 This Order for Commitment shall be interlocutory and is not final if within 30 days after
26 involuntary admission the person is unconditionally released pursuant to NRS 433A.390.

27
28 DATED: February 6, 2014.


DISTRICT COURT JUDGE

CERTIFICATE OF MAILING AND/OR ELECTRONIC SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the Second Judicial District Court in and for the County of Washoe, and that I deposited for mailing with First Class Postage prepaid at Reno, Nevada, sent by interoffice mail, electronically filed with the Court by using the ECF System which will send a notice of electronic filing, or had picked-up, a true and correct copy of the foregoing document addressed to:

Blaine Cartlidge, Esq.
Deputy District Attorney
Washoe County District Attorney's Office
By Electronic Filing

Kathleen O'Leary, Esq.
Chief Deputy Public Defender
Washoe County Public Defender's Office
By Electronic Filing

☒ NNAMHS
By Electronic Filing

☐ West Hills Hospital
c/o Ryan Herrick, Esq.
By Electronic Filing

☐ Renown Regional Medical Center
c/o Kim Rowe, Esq.
By Electronic Filing

☐ St. Mary's Regional Medical Center
c/o Kim Rowe, Esq.
By Electronic Filing

☐ Other _____

DATED: February 6, 2014

K. Montgomery
COURT CLERK

1 DOCUMENT CODE: 2610

2 Northern Nevada Adult Mental Health Services

3 480 Galletti Way

4 Sparks, NV 89431

5 775-688-2025

6
7 IN THE FAMILY DIVISION

8 OF THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

9 IN AND FOR THE COUNTY OF WASHOE

10 IN THE MATTER OF THE EXAMINATION

11 OF: Phong Vu

Case No. FV07-03179A

12 D.O.B.: 05/13/75

Dept. No.11

13 Alleged to be a Mentally Ill Person.
14 _____/

15 NOTICE OF PATIENT DISCHARGE
16 AND WITHDRAWAL OF ADVOCATE

17 Comes now, Susan Perazzo in the above referenced matter hereby submits this
18 Notification to the Court that Phong Vu was discharged from Northern Nevada Adult Mental
19 Health Services on February 18, 2014. As a result of the patient's discharge, any hearing
20 scheduled on this matter should be vacated. As a result of the patient's discharge from
21 Northern Nevada Adult Mental Health Services, the undersigned withdraws as advocate of
22 record and no longer requires notice regarding these proceedings.

23 AFFIRMATION PURSUANT TO NRS 239B.030

24 The undersigned does hereby affirm that the preceding document does not contain the
25 social security number of any person.

26 This notice is required to associate parties for the purpose of e-filing documents.
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Dated this 3rd day of March, 2014.

By: *Dan Perazzo*
[Signature]

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the Washoe County Public Defender's Office, Reno, Washoe County, Nevada, and that on this date I hand-delivered a true copy of the foregoing document to:

Hon. Chuck Weller, District Judge
Department 11 (Family Division)
One South Sierra Street, Third Floor
Reno, Nevada 89501

Blaine E. Cartlidge, Deputy District Attorney
Washoe County District Attorney's Office
One South Sierra Street, Fourth Floor
Reno, Nevada 89501

DATED this 23rd day of April, 2014

JOHN REESE PETTY