

# EXHIBIT VIII.

Dr. Carter Medication Panel

(Transcript Excerpts)

January 01, 2023

# Exhibit VIII. Facts/Info Sheet

The following pages are portions of Michael's transcript from his 03/11/21 CRP (i.e. Clinical Review Panel). "A panel" (for short) is for the purpose of forcibly administering psychiatric medication against a patient's will. The standard for such a dire circumstance is based upon one or more of the following:

- A patient is deemed to be a danger to self, others, or the property of others.
- Or a psychiatrist's reasonable exercise of professional judgement.

In short, Michael was deemed **"a danger to himself"** by a previous treating psychiatrist (Dr. Michelle Carter) at Clifton T. Perkins Hospital Center. That said, the criteria for "dangerousness to self" has long been established for that condition. West Academic Publishing *Mental Health Law in a nutshell 3<sup>rd</sup> EDITION* p. 162 (by John E. B. Myers) defines dangerousness to self as follows...

"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; or 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 judgement, reason, or behavior causing a substantial deterioration of the persons previous ability to function independently."

And it is exactly for the delineation above that the facts of this exhibit are so prevalent to Michaels over-all treatment. Plainly said, the doctor's direct testimony speaks for itself.

\*Please see attached excerpts from Michaels forced medication hearing and please forgive the multitude of errors committed by the voice recognition software. The hearing took place by video during the COVID-19 Pandemic which forced all parties to attend virtually. Nevertheless, please note the following:

1. p. 40 (line 22) ... "spoke to Mr. Kapneck for the 1<sup>st</sup> time on January 13, 2020."
2. p. 40 (line 25) Mr. Kapneck asked to speak with his doctor (in private) for 5 minutes.
3. p. 41 (line 20) It had been 2 weeks and Mr. Kapneck's doctor continued to deny him the ability to "talk".
4. Mr. Kapneck was soon thereafter being told by Dr. Michelle Carter that he was being "paneled" due to psychomotor agitation i.e., leaving his hospital room despite it NOT being outfitted with water, shower, toilet, p. 42 (line 44). Deeming his "movement" an EMERGENCY situation p. 44 (line 22).
5. Dr. Carter admits to ordering "emergency medication" p. 44 (line 2-6) which is a direct violation of the policies set forth by The Code of Maryland Regulations, The Health General Article & The Office of Health Care Quality.

6. Dr. Carter testifies on pages 49-55 that despite Mr. Kapneck NOT being physically aggressive, nor exhibiting any symptoms that would be defined as “dangerousness to others”, she was still requesting forced medication because... p. 55 (line 13-16) she felt that Mr. Kapneck was a danger to himself. In short, because she concluded that when Mr., Kapneck argued with staff... his arguing would cause other patients to attack him. DESPITE IT NEVER HAPPENING ONCE! Not to mention, it states in the Patient Bill of Rights, “that a patient has the right to complain”.
7. Regardless, Mr., Kapneck challenged Dr. Carters skewed rationale by asking the following question p. 52 (line 17), “do you think Mr. Kapneck is responsible for other patient’s actions?” ... she had to answer “NO” p. 52 (line 19), which begs the question, if Mr. Kapneck is NOT a danger to others, and 100% did not meet the criteria for being “a danger to self”, how was the arbitrary action of forcibly medicating him validated by the ALJ and upheld by the Howard County District Court Appellate judge?
8. p. 74 (line 1-21) covers Assistant Attorney General Ari Erlbaum’s closing argument which is laughable considering it is nothing but word salad prevaricated statements and outright LIES! Whereas Mr. Kapneck’s closing argument on p. 75-76 (as a patient and pro se litigant) was based on facts and the rule of law. But it didn’t matter. In the end, Mr. Kapneck was forced to for 3 months. And despite refusing the doctors prescribed medication for the 90 days mandated, The Department NEVER “paneled” him again. And that was years ago!

1 BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS

2 (Maryland Department of Health)

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4 MICHAEL KAPNECK \*

5 vs. \* OAH CASE NO.:

6 CLIFTON T. PERKINS \* MDH-CTP-09-21-04972

7 HOSPITAL CENTER \*

8 MARYLAND DEPARTMENT \*

9 OF HEALTH \*

10 \* \* \* \* \*

11 The hearing in the above-entitled matter was held  
12 on March 11, 2021, at the Maryland Office of  
13 Administrative Hearings in Baltimore County at 11101  
14 Gilroy Road, Hunt Valley, Maryland 21031 via  
15 Remote/Video Hearing.

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19 BEFORE: THE HONORABLE WILLIS GUNTHER BAKER

20 Administrative Law Judge

21

22 Transcription Service By: CRC Salomon

23

24 Proceedings recorded by electronic sound recording;

25 transcript produced by transcription service.

1 APPEARANCES:

2

3 ON BEHALF OF MICHAEL KAPNECK:

4 MICHAEL KAPNECK

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8

9 ON BEHALF OF CLIFTON T. PERKINS HOSPITAL CENTER

10 MARYLAND DEPARTMENT OF HEALTH

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1 was in fact prescribed by Dr. [indiscernible], I believe the  
2 date was 10/9 of 2020?

3 A. Around that time, yes.

4 Q. Okay. And you are aware that [indiscernible]  
5 and then the second day transferred Mr. Kapneck?

6 A. [indiscernible]

7 Q. Is that a reasonable exercise of professional  
8 judgment to prescribe a psychotic medication and then transfer  
9 a unit from [indiscernible] patient to another unit without  
10 monitoring, I guess you can say the [indiscernible] the  
11 dangerous, the clinical stability?

12 A. [indiscernible] wasn't without a treating  
13 provider, you still had a treating psychiatrist on the next  
14 unit who could monitor for those side effects as well as  
15 [indiscernible].

16 Q. Okay, but you, you, you did say that you later  
17 prescribed the Valproic Acid to Mr. Kapneck?

18 A. When he got transferred, yes.

19 Q. When he got transferred?

20 A. Um-hmm.

21 Q. And, uh, you also stated that the first time  
22 that you had spoken to Mr. Kapneck was on January 13 from  
23 the [indiscernible] nurses' station?

24 A. [indiscernible] around that time.

25 Q. He had requested just five minutes of your

1 time to speak and you felt that it wasn't improvement, you  
2 wanted to wait until the 14th and said you [indiscernible].

3 A. I said that I do meet with patients as a  
4 treatment team, in treatment teams [indiscernible].

5 Q. But you did decline to meet with him, just one  
6 on one, even for five minutes?

7 A. We spoke for about fifteen minutes on that.

8 Q. At the nurse's station?

9 A. No, we were in the dayroom area because there  
10 were five men, yes.

11 Q. So, you were in a, in the milieu talking  
12 about, I guess, private concerns what the patient  
13 [indiscernible].

14 A. There weren't any private concerns. We were  
15 talking about you meeting that was concerning your  
16 treatment, your [indiscernible].

17 Q. Okay, but at no time did you bring up the  
18 prescription of the Valproic acid at that time?

19 A. No. You didn't ask about it.

20 Q. So that was approximately 14 or 15 days after  
21 he was admitted to the unit.

22 A. Okay.

23 Q. You also stated that on the 14th, he was  
24 placed in isolation due to potential [indiscernible]

25 A. Um-hmm.

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1 Q. And, um, you had mentioned that you had placed  
2 an order for PRN medications due to emotional, I'm sorry,  
3 psychomotor agitation.

4 A. I didn't say that here, but yes, that did happen.

5 Q. That did happen?

6 A. Um-hmm.

7 Q. And, um, the main and chief concern was that  
8 he was leaving the room?

9 A. It wasn't just the chief concern of leaving  
10 the room. It was a concern that you were on isolation for  
11 COVID-19 [indiscernible] and you were unable to stay on,  
12 with, on isolation in your room.

13 Q. Okay. Just to be clear. Is there a bathroom  
14 in the hospital rooms?

15 A. No, the bathroom is right across the hall.

16 Q. So, patients have to leave their rooms to go  
17 to the bathroom?

18 A. Right.

19 Q. Is there a shower in any of the patients'  
20 rooms?

21 A. No.

22 Q. So, they have to leave their room to go to the  
23 showers?

24 A. Right.

25 Q. And is there a source of water in the



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1 patients' rooms?

2 A. No.

3 Q. So, they have to leave the room for water as  
4 well?

5 A. No, [indiscernible] water is brought to the  
6 room, because you weren't supposed to pass the bathrooms on the  
7 hallway and you repeatedly came to the nursing stations despite  
8 the fact that you were on isolation. Water and food are  
9 actually brought to the room.

10 Q. So, you're saying on the very first day of the  
11 isolation there was an established water source that was brought  
12 to the patients' rooms, are you positive?

13 A. No, I'm not that the first night, no. There  
14 was a transition but the water would have been brought to you  
15 but you weren't staying in your room and it wasn't due to the  
16 water. It was about the, iso-, you know, the isolation itself  
17 that you wouldn't stay in your room.

18 Q. Do you recall Mr. Kapneck going out of the  
19 room to notify the nursing station that the cleaning company  
20 failed to clean the bathroom that was previously used by  
21 COVID-19 positive patients and was now being used or designated  
22 for patients that had negative results but potential exposure.  
23 Do you recall that?

24 A. I know you made that find, yes.

25 Q. [indiscernible]. Do you also know that Mr.

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1 Kapneck [indiscernible] to request heartburn medication?

2 A. Yes. And I told you when you came out to  
3 request it that to let the hallway monitor know and let that  
4 person bring it to you.

5 Q. For the record, after the 14th, after you had  
6 explained the, I guess, the conditions [indiscernible] were  
7 there any further issues with Mr. Kapneck coming out of the  
8 room?

9 A. No.

10 Q. So, he was redirectable once you  
11 [indiscernible] what was going on?

12 A. Yes.

13 Q. And at the time on the 14th when you had  
14 authorized the [indiscernible] for this psychomotor agitation  
15 and leaving the room, so to speak, it was actually later  
16 determined in the nursing notes that it was also ordered as an  
17 IM, intermuscular injection, hence, Mr. Kapneck refused the oral  
18 consumption of the medication.

19 A. I'm sorry, what's your question?

20 Q. Was it a voluntary prescription or was he told  
21 that he would receive the IM if he did not take the medication?

22 A. The oral medication was an emergency, dose of  
23 medication based on disrupting the milieu that was written up.

24 Q. So, by coming out to the nursing station and  
25 requesting heartburn medication, that was constituted as

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1 disrupting the milieu [loud background noise]?

2 A. It wasn't just coming out and requesting the  
3 heartburn medication.

4 Q. Well, you never stated anywhere in your report  
5 or records that there was an issue with Mr. Kapneck inciting  
6 other patients. It just says [indiscernible] and he, for the  
7 record, didn't want to get as close to the nurse's station as  
8 per se, he would on an average day being on isolation, so he  
9 goes to elevate your voice to speak over the partition, is that  
10 fair to say?

11 A. I'm not [indiscernible]

12 Q. Isn't there a large partition that divides the  
13 patients from the nursing staff?

14 A. Yes. There's the window.

15 Q. And you can't talk in a low tone and  
16 [indiscernible] can hear you, is that correct?

17 A. I don't necessarily agree with that.

18 Q. Okay, but nevertheless disrupting the milieu,  
19 can you explain how he disrupted the milieu?

20 A. Which day are you referring to?

21 Q. August 14th when you prescribed the emergency  
22 medication?

23 A. So, that's the day you were [indiscernible]  
24 for medical call the night before and just the fact that you  
25 hadn't slept the night before, you were in and out of the room

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1 [indiscernible]. Isolation started on the 13th and staff didn't  
 2 want [indiscernible] 6:30 in the morning or within the 6 o'clock  
 3 hour. From six to seven o'clock [indiscernible] you came out of  
 4 your room probably four or five times during that hour and I had  
 5 discussed with you that I was concerned that you are on  
 6 isolation and we discussed it that week that I feel like we, it  
 7 wasn't a volitional thing. I felt like we could not push  
 8 forward without [indiscernible] if there is a recklessness and  
 9 psychomotor agitation that prevented you from staying in your  
 10 room while you were on isolation.

11 Q. Okay. Um, as you were just, based on your  
 12 expertise, what constitutes an emergency situation?

13 A. Just, we were [interrupted]

14 Q. I'm [indiscernible] but one specific to force  
 15 medication?

16 A. I don't specifically what your question is.

17 Q. Is it fair to say that the statute reads that  
 18 if a patient is a danger to himself or others an imminent,  
 19 physical danger to self or others, then that would constitute  
 20 the basis for emergency medication?

21 A. Correct.

22 Q. Correct. So, you are saying by Mr. Kapneck  
 23 coming out of his room, loudly requesting heartburn medication,  
 24 going in and out of the bathroom, going for water, taking a  
 25 shower at 6 a.m., coming [indiscernible], that would constitute

1 an emergency situation of imminent danger to self or others?

2 A. It is an emergency situation when you are on  
3 contact isolation along with working as a patient because of  
4 exposure to COVID and you're still coming out of your room  
5 repeatedly or when there are other patients that are not on  
6 isolation, that is an emergency.

7 Q. But Mr. Kapneck did have a negative test  
8 result the day before, correct?

9 A. But [indiscernible] for the repeat. I know  
10 the Board [indiscernible] administration that all patients are  
11 exposed to [indiscernible].

12 Q. You had mentioned that there was six positive  
13 patients [talking over each other].

14 MR. EB [REDACTED]: Your Honor, I just wanted to object  
15 because this line of questioning has gone on and on about the  
16 same thing. I don't know if there's any utility to continuing  
17 to beat this to death, so to speak.

18 THE JUDGE: Yes. Uh, so Mr. Kapneck, if you could  
19 try to focus, I mean obviously, Dr. C [REDACTED] has testified and I  
20 don't want her to have to repeat everything that she's already  
21 said. I understand that you want to ask her questions, but I  
22 think that, we -- I understand the point you're trying to make  
23 regarding that particular incident, so if we could maybe move  
24 on.

25 MR. KAPNECK: Yes, Your Honor. I do apologize



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1 for being repetitious but I just wanted to establish that the  
2 legal standard for, you know, the forcing or, um, applying  
3 emergency medication is only when a patient exhibits imminent  
4 physical danger to self or others which was clearly not in this  
5 situation. I'm going to move on [interrupted indiscernible]

6 THE JUDGE: Okay. So, and also, so Mr. Kapneck I  
7 also want to point out that, that we're not here to look back to  
8 every issue that happened previously. It's whether the hospital  
9 has demonstrated that they have the right to place you on  
10 medication now. So, if we can try to focus in on just that,  
11 that issue because you're not appealing your hospitalization,  
12 you're not appealing, you know, IMs that may have happened in  
13 the past. Okay? So, if we can try to concentrate on the case  
14 at hand.

15 MR. KAPNECK: Yes, Your Honor. I do feel at a  
16 tremendous disadvantage because the doctor has gone on in  
17 extensive detail all of these symptoms and conditions that are  
18 the basis for the need for potential [indiscernible] forced  
19 medication. Um, quite frankly without getting into personal  
20 testimony this moment, the line of questioning and/or the  
21 questions that I have for Dr. C [REDACTED] would substantiate the  
22 record, the video evidence, the actual conditions, you know, are  
23 quite different than the doctor testified about. With that I  
24 will try to keep the line of questioning concise and I ask for  
25 the court's indulgence if I can proceed.

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1 THE JUDGE: Yes, you may.

2 BY MR. KAPNECK:

3 Q. Thank you. So you had stated that you believe that  
4 Mr. Kapneck is exhibiting, as mentioned in your report,  
5 [please bear with me as I flip the page here] increased,  
6 demonstrating increased symptoms of his bipolar disorder. Just  
7 out of curiosity, does irritability constitute the need for  
8 emergency medication?

9 A. Not [indiscernible]

10 Q. Okay. And having an elevated mood which was  
11 denoted on Mr. Kapneck's admission by Dr. [indiscernible], does  
12 that constitute emergency medication?

13 A. Not by itself, as an individual.

14 Q. Okay. And uh, for the record, your chief  
15 complaint was not that he was a danger to others, you reiterated  
16 this time and time again that he was a danger to self. Has Mr.  
17 Kapneck ever exhibited any type of self-mutilation, cutting?

18 A. Not during his hospitalization  
19 [indiscernible].

20 Q. Any one [interrupted]

21 A. Not self-mutilation, no.

22 Q. Okay. While in the hospital, has he ever  
23 tried to hung himself, while in the hospital?

24 A. Not that I know of.

25 Q. Okay. So even in this specific hospital stay,

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1 he has not tried to commit suicide [indiscernible]?

2 A. [indiscernible]

3 Q. Okay. Um, and uh, so you had also mentioned  
4 as far as a potential ligature issue with contraband, you said  
5 that you [indiscernible] found long pieces of dental floss.  
6 Do, do, does the hospital provide dental floss?

7 A. Yes.

8 Q. They pass it out, I guess, during specific  
9 times of the day?

10 A. Yes. [indiscernible]

11 Q. Do they actually monitor the length or the  
12 patient just pull out a piece as they see fit?

13 A. That, I'm not aware of [indiscernible]

14 Q. But exactly, they do get the dental floss from  
15 the staff?

16 A. Okay.

17 THE JUDGE: Doctor can you please keep your voice  
18 up. I'm having a hard time hearing you because you're facing  
19 Mr. Kapneck and so you're away from the microphone. Thank you.

20 DR. [REDACTED]: Sorry. Sorry. Okay, sorry.

21 BY MR. KAPNECK:

22 Q. So, I'm sorry. Just to clear up real quickly,  
23 it was stated that Mr. Kapneck had problems, extensive  
24 contraband searches but the most significant item, I believe  
25 was a large piece of dental floss that was obtained by the



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1 nursing staff?

2 A. I mean there are other items that I didn't  
3 mention in terms like the coffee that was found in an envelope,  
4 I didn't go through all of that [indiscernible].

5 Q. The coffee that was acquired. They do sell  
6 coffee on [indiscernible], correct?

7 A. Yes. The [indiscernible] coffee  
8 [indiscernible].

9 Q. The coffee, this was how long ago for the  
10 record, just for the sake of the [indiscernible].

11 A. This was uh,

12 Q. Approximately.

13 A. It was probably about a year ago.

14 Q. Okay. A year ago. Um, [indiscernible] any  
15 per se, stimulants or mood alternate substances found in Mr.  
16 Kapneck's possession?

17 A. Any of it, no.

18 Q. Okay. Moving on, [indiscernible] in  
19 compliance and accepted recommendations, Mr. Kapneck, despite  
20 not exhibiting any psychotic symptoms despite not displaying  
21 auditory or illusionary hallucinations, no [indiscernible] or  
22 suicidal adulations, did capitulate to taking the Quetiapine  
23 ordered by Dr. [indiscernible] when he first arrived here at the  
24 hospital, correct?

25 A. Um, yes.

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1 Q. And that does have a dual purpose. It's an  
2 antipsychotic and mood stabilizer?

3 A. Yes.

4 Q. Okay. And um, that [indiscernible] up to  
5 [indiscernible]

6 MR. E [REDACTED]: Objection. I don't know the  
7 relevance about thinking [indiscernible] when he was admitted  
8 would be to anything reflective [indiscernible]. As Your Honor  
9 said about the dangerousness in the hospital with, you know,  
10 without the medication.

11 THE JUDGE: So, Mr. Kapneck, if we could try to  
12 focus. I think Dr. C [REDACTED] spoke mostly about the very recent  
13 past, not - not, from your, from the time of your admission that  
14 she spoke to your, to your current state of mind and your  
15 current symptoms which is what prompted the clinical review  
16 panel. So, if we can try to - to stick to this calendar year or,  
17 you know, may, you know, maybe November to this calendar year  
18 because the other information is not really relevant to whether  
19 today the clinical, the decision of the clinical review panel is  
20 correct. The historical is not really relevant to the hearing.

21 MR. KAPNECK: Yes, Your Honor. I do apologize.  
22 Um, continuing along, in regards to the incitement of other  
23 patients which potentially puts Mr. Kapneck at risk, have you  
24 ever seen or heard him incite another patient?

25 A. What's your question? I've seen you

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1 [indiscernible] be agitated and be verbally abusive to staff  
2 [indiscernible].

3 Q. So, for the sake of this, we're talking about  
4 to the patients, have you ever heard Mr. Kapneck say anything  
5 [indiscernible] come on let's fight, or we'll see you kick my  
6 ass or something to that effect, like actually inciting  
7 [indiscernible]

8 A. I have, I have not, I have not heard anything,  
9 no.

10 Q. Okay. Has it been documented in  
11 [indiscernible] files here as far as actually inciting patients?

12 A. I have, there is one episode that I saw  
13 concerns [indiscernible] I'll thrash you [indiscernible].

14 Q. Okay. [background noise - indiscernible]  
15 we'll have to sort it out, right?

16 A. Okay.

17 Q. So, with all due respect to you, Your Honor's  
18 directive about keeping things in this calendar year, just going  
19 back one, just a brief period of last year regarding the one  
20 [indiscernible] incident that Mr. Kapneck about his arguing with  
21 staff and incited a psychiatrist.

22 A. It agitated.

23 Q. Agitated? So, are you aware that that patient  
24 has been paneled at that time, as you mentioned, on a one-to-one  
25 observation, meaning that he has never stopped within the

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1 [indiscernible] behavior as mentioned? [indiscernible]

2 A. Yes.

3 Q. [indiscernible]

4 A. Yes. Yes.

5 Q. Okay. Are you aware that that patient in  
6 particular has assaulted countless other patients?

7 A. I'm not as familiar with that particular  
8 patient. I'm not the treating doctor for that patient,  
9 [indiscernible]

10 THE JUDGE: And Mr. Kapneck, I don't think that we  
11 should be getting into other patients and their diagnoses and  
12 their history. It is not an appropriate thing for us to be  
13 discussing when that patient is not a party to the matter.

14 MR. KAPNECK: Yes, Your Honor. What I wanted  
15 to, I guess, show is that [interrupted]

16 THE JUDGE: I, I understand. I understand from what  
17 you've presented that you're trying to demonstrate that that  
18 person is agitated anyway, so I understand that. So, if we can  
19 move on from that.

20 BY MR. KAPNECK:

21 Q. No problem. Um, you have stated in your testimony  
22 and you said that you admitted that Mr. Kapneck was not  
23 aggressive. You stated that, but you said I misperceived what  
24 you said. Can you expound upon that Mr. Kapneck not being  
25 aggressive part?

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1 A. I don't really understand your question.

2 Q. Okay, did you say that Mr. Kapneck was not  
3 aggressive?

4 A. Not physically aggressive.

5 Q. Not physically aggressive? Okay. Um, so  
6 doesn't that go hand-in-hand with the emergency use of, I guess,  
7 psychitory medications (i.e., someone that is, you know,  
8 [indiscernible] intimate, physical gain -- danger and you just  
9 stated he was not physically aggressive. Does that go  
10 hand-in-hand, I mean someone has to be, in order for someone to  
11 be classified as dangerous, they has to be, I guess, physically  
12 aggressive.

13 A. No. The way that I'm defining the dangerous  
14 is danger to self, based on current symptoms and impaired  
15 insight of judgment which places you at risk of being a danger  
16 to self [indiscernible].

17 Q. Do you think that Mr. Kapneck is responsible  
18 for the behavior of other patients?

19 A. No.

20 Q. So, you know, not to be funny or  
21 condescending, if you go to a football game and you're  
22 cheering for the Redskins and the Ravens come out and you  
23 boo them and the Ravens' fan gets mad and come punches you  
24 in the face, who would you find at fault?

25 MR. EI [REDACTED]: Objection. This is a speculated



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1 MR. E [REDACTED]: I don't want to - I will be very  
 2 briefly [indiscernible]. We've heard quite enough. Your Honor,  
 3 that the testimony you heard from Dr. C [REDACTED] was credible and  
 4 it's, I think it's abundantly clear that Mr. Kapneck presents a  
 5 danger to himself, if not others, as well, based on the  
 6 testimony you heard. He has a very severe mental disorder.  
 7 It's bipolar 1 with a manic feature. You saw examples of that  
 8 today in the testimony. The problem is that he's unable to see  
 9 the issue as he recognizes the symptoms but goes through these  
 10 episodes of aggression and irritability. He puts himself in  
 11 danger as Dr. C [REDACTED] described. I can't go through all the  
 12 episodes, but he puts himself in danger and others. It's caused  
 13 major issues on the unit. There's been fights that broke out  
 14 because of it, he's been assaulted. I think he's assaulted  
 15 others from what I understand whether it was his fault, you  
 16 know, whether he instigated it or not, it's relevant to the fact  
 17 that his actions are a direct cause of a danger that he's, the  
 18 behavior that he's exhibiting. So, with that [background  
 19 noises] I ask that Your Honor find that the hospital be allowed  
 20 to administer the medication in order to protect himself and  
 21 others in the hospital.

22 THE JUDGE: Mr. Kapneck do you want to offer a  
 23 closing statement or do you want to just rest on the testimony  
 24 you've already provided.

25

CLOSING STATEMENT

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1 BY MR. KAPNECK:

2 MR. KAPNECK: No, I just like to have a brief  
 3 close, Your Honor. I appreciate, I mean I apologize for being a  
 4 little robust today. There a lot of what [indiscernible]  
 5 somewhat argue here, I just wanted to reiterate that I'm not  
 6 trying to be adversarial or disrespectful to Your Honor or the  
 7 treatment team. I was merely trying to vindicate my character  
 8 which to me is unjustly, you know, refuted by so many, you  
 9 know, for just for speaking up for myself for my right. It's an  
 10 easy way to diminish it by saying that I'm symptomatic because I  
 11 speak up for myself because [indiscernible]. But violent, I am  
 12 not by the doctor's own admission. Aggressive and physically  
 13 violent, I am not. So, we are talking about, you know, a  
 14 significant constitutional right to avoid the administration of  
 15 an anti-psychotic medication. I know that you said this is not  
 16 about emergency medications or not, but it really is about  
 17 violating integrity and being able to choose as long as you meet  
 18 the criteria whether you will or will not, you know, receive  
 19 anti-psychotic medications for behavior that doesn't meet the  
 20 statute, so I respectfully ask Your Honor to, you know,  
 21 [indiscernible]. They [indiscernible] the hospital feels that  
 22 it's an emergency situation [indiscernible] implement their  
 23 emergency protocol and I feel that by the preponderance of the  
 24 evidence I have shown that the department has not clearly shown  
 25 an overriding justification for the medication. As she, she,

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1 the doctor said you know is an elevated mood, does that in  
 2 itself make you dangerous? No. Does uh, you know, being  
 3 agitated? No. Does uh, having some sleepless nights? No. Are  
 4 you aggressive to other patients? No. Uh, you know, so I just  
 5 think by virtue of the questions and answers that the  
 6 justification is not met. [indiscernible] couple of points Your  
 7 Honor. With the department's exercise to, you know, exercise  
 8 another panel and if I'm not compliant with the current  
 9 medication regiment, which by the way, the doctor had originally  
 10 recommended to [indiscernible], I said "hey can I do a  
 11 thousand"? She said fine. I complied to the thousand. I intend  
 12 to keep taking it. I shared general concerns about the side  
 13 effects. At no time did I say hey I'm not taking this crap, you  
 14 know, always making me feel so bad, I can't take it anymore.  
 15 Just wanted to have my sanity about me. I wanted to be able to  
 16 have a decent quality of life. I fear that if Your Honor grants  
 17 the department the power to impose whatever, uh, you know,  
 18 rationale they so justify that you'll be taking away that  
 19 constitutional right. And final Your Honor, and above and  
 20 beyond, you know, hence, an emergency does by the standard  
 21 arise, um, you know, I'll just say again, that the hospital has  
 22 more than ample resources to address an emergency situation. I  
 23 personally do not feel that things that I've done up to date,  
 24 you know, constitute an emergency by the statute, Your Honor,  
 25 and with that I'll ask that you, you know, find in favor of me



TRANSCRIBERS CERTIFICATE

I, [REDACTED], hereby certify that I transcribed from audio file the proceedings to the best of my ability in the foregoing-entitled matter; and I further certify that the foregoing is a full, true and correct transcript of the audio files produced.

IN WITNESS THEREOF, I have subscribed my name on March 24, 2021.

[REDACTED]  
Transcriptionist