



1600 9th Street, Sacramento, CA 95814
(916) 654-2309

February 26, 2003

The Honorable Robert Baines
Judge of the Superior Court
County of Santa Clara
Department 22
191 North First Street
San Jose, CA 95110

RE: DEVRIES, BRIAN ALAN
SCC: 169315
AT No. 047399-1

Dear Judge Baines:

I have been advised that on Monday, February 24, 2003, you ordered Mr. Brian DeVries, committed to the State Department of Mental Health as a Sexually Violent Predator, into outpatient supervision and treatment. As Director of the State Department of Mental Health I have overall responsibility for all persons committed to this Department for care and treatment, including persons committed to Atascadero State Hospital as Sexually Violent Predators. In this capacity, I must express grave concerns regarding the ability to adequately guarantee public safety regardless of the imposition of stringent terms and conditions on Mr. DeVries' outpatient treatment.

Specifically, Subdivision (d) of Section 6608 of the Welfare and Institutions Code establishes the standard that is applicable when ordering a committed person to be placed into outpatient treatment. The court is to order outpatient treatment "...if the court at the hearing determines that the committed person would not be a danger to others due to his or her diagnosed mental disorder while under supervision and treatment in the community...(emphasis added)".

Applying this criterion to Mr. DeVries, I believe that he may be a danger to the health and safety of others while in outpatient treatment. Mr. DeVries has been and continues to be an adjudicated Sexually Violent Predator. That is, he has been found to have a diagnosed mental disorder that makes him a danger to the health and safety of others in that it is likely he will engage in sexually violent criminal behavior. That he continues to be a Sexually Violent Predator was recently confirmed by two independent evaluators. From a clinical perspective, it is well established that, at the current time, there is no "cure" for the type of



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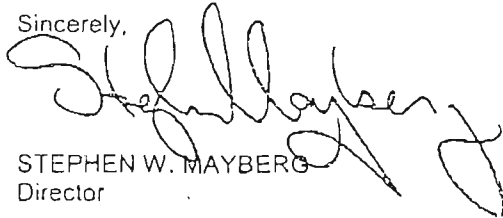
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behavior that makes Mr. DeVries a Sexually Violent Predator. From a public safety perspective, even with the most stringent measures of care and supervision while on outpatient status, it cannot be guaranteed that he will not reoffend.

Further, because of the understandable public concern presented by Sexually Violent Predator patients, the Department of Mental Health has had great difficulty contracting for Community Program Director services for Mr. DeVries and obtaining the requisite recommendation required by Section 6608 (e) of the Welfare and Institutions Code.

I recognize that Mr. DeVries has, from a clinical point of view, completed the inpatient phase of his treatment at Atascadero State Hospital, and, consistent with your order, my staff will report to you at the hearing scheduled for Monday, March 3, 2003, that we are making significant progress in obtaining Community Program Director services for him. However, for the reasons discussed above I believe that Mr. DeVries would be a danger to others as described in Section 6608(d) and that it is premature to order him into an outpatient status.

Sincerely,



STEPHEN W. MAYBERG
Director

cc: Dana Overstreet
Deputy District Attorney
✓ Brian Mathews
Deputy Public Defender