

Mental Health Review Tribunal

Review regarding Saeed Sayaf DEZFOULI dated 11 February 2010

Richard Gulley: Good morning it's the Mental Health Review Tribunal here, my name is Richard Gulley, I'm the legal member.

John Spencer: John Spencer, psychiatrist. Good morning.

Meredith Martin: Meredith Martin, community member. Hello.

Keith Mullik: Keith Mullik, Tribunal staff member.

Jane Talty: Jane Talty, social worker.

Dr O'Dea: Dr O'Dea, treating psychiatrist.

Brett Collins: Brett Collins.

Roger Goundio: Roger Goundio(?), endorsed enrolled nurse for Clovelly Ward.

Gavin Gray: Gavin Gray, occupational therapist.

Yiota Zingirlis: Yiota Zingirlis(?), psychologist.

Richard Gulley: Could you tell us your name for purposes of the record please?

Saeed Dezfouli: Saeed Dezfouli.

Richard Gulley: Thankyou. Mr Dezfouli this is a standard six month review. The last review, I think, was on 20 August 2009 and the recommendation after that review was that the current arrangement for care, treatment and detention

should continue. That review was dated 30 September 2009. Now, is there anything you would like to tell us at this stage?

Saeed Dezfouli: Yes, now previous Mental Health Review Tribunal hearing is incomplete. We have unfinished business. The application orally submitted to the president, Greg James, who was handling the hearing as signed, he advised we put in writing, the application. The copy of the application is that which was submitted to him in writing. Eight items are raised in that application.

Richard Gulley: Yep, seen that... Mmm hmmm.

Saeed Dezfouli: And he responded...

Richard Gulley: Mmm hmm

Saeed Dezfouli: ...to my primary carer, Mr Collins...

Richard Gulley: Mmm hmm

Saeed Dezfouli: ...and his response is basically irresponsible and he has fucked up the issue of me together [*untranscribable*] Justice Health. The point is that under section 43, 44 and 46 of the *Mental Health Forensic Provisions Act* you are required by law to review my care, treatment and detention and that's why you and your staff, Mental Health Review Tribunal are getting paid handsomely by the tax payers. You're not doing me a favour, you are doing your job. So, basically, the role of Greg James as the President of the Mental Health Review Tribunal was to review my care, treatment and detention and he didn't. So you and your Tribunal is out of order. You're showing

and proving to me and the audience that you are a dysfunctional, corrupt, rotten, hopeless, pathetic organisation...

Richard Gulley: Thank you

Saeed Dezfouli: ...and a waste of tax payers' money.

Richard Gulley: Thank you.

Saeed Dezfouli: Now I need you...

Richard Gulley: I don't... Mr Collins, if you would like to have a word with Mr Dezfouli that his words do not encourage me at all.

Brett Collins: Okay, Mr Chair.

Richard Gulley: In fact, they could only serve to indicate that we should get on with this review. Mr James completed his review on the 30 September. He is the President of the Tribunal. I think most of these things were raised to him at the time. They've been raised in writing subsequently to the last review. Mr James responded to that review. I don't think it helps for Mr Dezfouli to accuse us as people who are rotten and corrupt.

Brett Collins: Mr Chair, can ...

Richard Gulley: We are exercising a function under the right Act...

Brett Collins: Mr Chair...

Richard Gulley: ...we propose to continue to exercise that function under the Act.

Brett Collins: Right Mr Chair, let me also in response to your invitation there respond to you as well. There was an invitation at the last hearing by Mr James for us to put forward a proposition which we put forward to you...

Richard Gulley: Good.

Brett Collins: ... in a seemly way.

Richard Gulley: It's been done.

Brett Collins: That was accepted and we had an undertaking that within six weeks there would be a review. We waited then for 12 weeks, three months, at which stage we then had an approach to the Minister for Health through a Member of Parliament....

Richard Gulley: Yes

Brett Collins: [*untranscribable*], for the Greens, who said why has there not been a review given as has been at the Tribunal said it would do. An undertaking was given to Mr Dezfouli. Now I appreciate that Mr Dezfouli is a patient here and as such has special rights and you have special obligations to him according to the Act.

Richard Gulley: Thankyou.

Brett Collins: And it, can just...

Richard Gulley: We are aware of that and the fact is...

Brett Collins: Excuse me, can I just respond...

Richard Gulley: ...that we are dealing with... No I just want to get this thing on track. We are dealing with a review today under section 46(1).

Brett Collins: But you did undertake to make a review...

Richard Gulley: I didn't undertake anything, sir.

Brett Collins: But we did have an undertaking to Mr Dezfouli, that's all I'm saying. If we make undertakings to him we have an obligation to carry them out. Now I agree with Mr Dezfouli that if you make an undertaking to him, you should carry it out otherwise we can't expect him...

Richard Gulley: Well that's... If you are suggesting that Mr James gave an undertaking and nothing happened...

Brett Collins: That's right.

Richard Gulley: That's a matter which you should either (a) put to Mr James or (b) to someone else.

Brett Collins: We've already put it Mr James and also to the Minister for Health. This is a political issue.

Richard Gulley: Now I am going to deal with the section 46(1) review today and that's what this panel is charged with doing today.

Brett Collins: That's fine but...

Richard Gulley: We are not going to engage in any political debate or debate about what or what the President said on the last

occasion or what the President didn't say on the last occasion or what the President said he would do or didn't do. We are going to deal with this review today and its going to stay on track.

Brett Collins: No that's fine, no problem.

Richard Gulley: You know me better than that Mr Collins when I say this I mean it.

Brett Collins: Yes, no, no we also want it too.

Richard Gulley: Thank you, good.

Brett Collins: Just as long as Mr Dezfouli...

Richard Gulley: Are there any issues that you would like to raise in relation to this review today.

Brett Collins: Yes, thank you Mr Chair. We have three papers that we wish to present to the Tribunal. One is the Profile for Mr Dezfouli which indicates which indicates his... and it's called Profile, which his being a victim of the system and so, and support for that position. The second paper, oh sorry and then the first one...

Richard Gulley: Well just a moment, just a moment. Sit down, sit down Mr Collins. This is a Profile of Mr Dezfouli draft one, two 2010.

Brett Collins: I'm happy to send this by email.

Richard Gulley: Whose document is this?

Brett Collins: That's a document from me as his primary carer.

Richard Gulley: Okay. Would you like to sign it?

Brett Collins: Yes.

Richard Gulley: Thank you. And your role and put a date on it. Is this a document that you have given the Tribunal before?

Brett Collins: No, we haven't.

Richard Gulley: Would I suggest to you in relation to any future reviews that if you wish material to be read by the Tribunal at least extend the courtesy of the Tribunal and send to the Tribunal prior to the hearing date.

Brett Collins: Well Mr Dezfouli only received his documents the day before...

Richard Gulley: No, no. You're the author of that.

Brett Collins: Right, I am the author of that, that's right.

Richard Gulley: Right and it's said to be dated the 1st of February.

Brett Collins: Ahh that's right, yes.

Richard Gulley: Now today is the 11th of February. Now it would have been available to you to have that copied, sent to the Tribunal so the Panel would have the opportunity of reading it prior to today. Nothing can be gained by keeping that document until this morning because we don't have the time to read it this morning.

Brett Collins: Mr Chair I only received this document from the Tribunal yesterday. Right and I was happy if I had an invitation to it to pass that over I would have done so no one suggested it to me. I am the primary carer. That's that document.

Richard Gulley: Right.

Brett Collins: The second document is the, er, regarding the care, treatment and control of Mr Dezfouli. He, every fortnight, is being injected against his will, um, instead, and because he is regarded as being tense and disturbed, since the removal of his smoking which he previously had access to. Now those things are not coincidental and we have made a direct study of this, I have made a study of his entitlement to refuse a, um, forceful injection and we have international support to say that, that should be, he should be, should have entitlement to refusal to stop...

Richard Gulley: What is this document you're waving here?

Brett Collins: The document is called The Right to Refuse Treatment for Involuntary Patients and this is the document for the purpose of the Tribunal.

Richard Gulley: Show me that document. That's a massive document Mr Collins.

Brett Collins: It is. It's intended to support.

Richard Gulley: Well this, I can tell you now, as the lawyer charged with running this panel this morning, there is no way that this panel is going to read this document this morning and understand the contents of it.

Brett Collins: That document has been given to Justice Health.

Richard Gulley: Right, so okay. So you would like the Tribunal to receive this document this morning. Who is the author of the document?

Brett Collins: I'm the author of the document.

Richard Gulley: Right would you like to sign and date the document.

Brett Collins: Yes I will.

Richard Gulley: And we will take that one on board too.

Brett Collins: Thank you.

Richard Gulley: Now you have got a third one, is there?

Brett Collins: A third document. This document is headed The Educational Rights of Forensic Patients. It refers to the entitlements of Mr Dezfouli under the Charter.

Richard Gulley: What Charter?

Brett Collins: The Charter of the Department of Health.

Richard Gulley: NSW Department of Health?

Brett Collins: Yes, the Charter of Mental Health Care in NSW on the website of the Department of Health. It says every person in NSW has the right to mental health services that and under eleven it says "address quality of life issues such as accommodation [*untranscribable*].

Richard Gulley: Is this your document?

Brett Collins: I beg your pardon.

Richard Gulley: Is this your document?

Brett Collins: This document is my document, yes.

Richard Gulley: It's this one here is it?

Brett Collins: Yes it is.

Richard Gulley: Right so you prepared it?

Brett Collins: Yes I have.

Richard Gulley: Would you like to sign it and date it?

Brett Collins: Yes.

Richard Gulley: And the Tribunal will receive it.

Brett Collins: I'm happy to send it through to the MHRT by email as well so they have the document in digital format. It refers to the entitlement of Mr Dezfouli under the Charter to receive access to education. Now the document that we have previously given to the MHRT six months ago requested specifically access to a computer that had been donated from the University of NSW students for the purposes for Mr Dezfouli.

Richard Gulley: I know about the computer, yes.

Brett Collins: We have been refused access to that computer. Mr Dezfouli had been refused access to that computer.

Richard Gulley: By Justice Health, I suppose?

Brett Collins: By Justice Health that's right and the...

Richard Gulley: Would you like to take that complaint up with Justice Health?

Brett Collins: We have taken it many times, we have had long and tortuous discussions and at the end of it have not, Mr Dezfouli has not, had the benefit of education. Now this is an issue that concerns us, he has entitlement under the Charter and has not been recognised.

Richard Gulley: Okay, we note that. The Tribunal notes that.

Brett Collins: We are concerned that Mr Dezfouli is seen as being a complainant without reason, without purpose. There are two issues here, one is the review that was promised that he didn't get and education rights that he has not received and involuntary treatment which definitely is, is...

Richard Gulley: We understand what you were saying. We also understand that you provided three extremely lengthy documents to the Tribunal this morning. The Tribunal could not, under any circumstances, read, digest the contents of those, and be in a position to debate those matters with you today.

Saeed Dezfouli: Can I suggest to, ahh, adjourn this hearing until the tribunal has a chance to... because...

Richard Gulley: We're not proposing to adjourn this hearing at this stage. We are going to proceed with the hearing. Now thank you for those, anything else touching on this hearing today as to Mr Dezfouli's care, treatment and detention that you would like to draw to our attention?

Brett Collins: Yes Mr Chair. We have had several people who have been working in support of Mr Dezfouli and according to the Charter for rights he has entitlement to, under 11, address quality of life issues and other relationships. Now, according to the MHRT website, it says involvement of relatives and victims, it says under the heading, the Tribunal reviews are open to the public.

Richard Gulley: They are.

Brett Collins: Now we had, at the last hearing, we had a policy advisor for a Member of Parliament here.

Richard Gulley: Sylvia Hale.

Brett Collins: That's right, and we also had one of our workers, a support worker for Mr Dezfouli, for who was prepared and has put time aside and was here at the last hearing six months ago. Now, as of yesterday, two of our workers were refused access and they were support workers for Mr Dezfouli who under...

Richard Gulley: They were refused access by who?

Brett Collins: By Justice Health. Right. And both have been...

Richard Gulley: You appreciate that Justice Health runs this hospital not the Mental Health Review Tribunal. But the Tribunal,

however, does have the obligation of detention, care and treatment and release of Mr Dezfouli.

Richard Gulley: Mmm, it does.

Brett Collins: Now in order for you to receive the material that you have, mmm, you need to have access to the support network that Mr Dezfouli has, in order to appraise the...

Richard Gulley: Well these people could provide written material for the Tribunal to consider couldn't they?

Brett Collins: Six months ago we had the same sort of people who are in support of Mr Dezfouli who were able to enter. Now they have been told on the basis they were told that they were, uh, this was a maximum security hospital.

Richard Gulley: It is.

Brett Collins: And that Justice Action was not, Justice Action was not, a support organisation for Justice Health. Now if neither of those two provisions prevented our two previous support people from being present. So, we are most concerned that the Tribunal does not have access to the information that allows us to make proper decisions for the review.

Richard Gulley: I don't think the Tribunal wouldn't be restricting your right to information at all.

Brett Collins: But the...

Richard Gulley: What you're talking about here, is it not, the right of Justice Health to now, hang on, hang on, the right of Justice Health to admit or not admit people to the

precincts of this hospital. Now if that's something you would like to take up with Justice Health, you should do so.

Brett Collins: We have done so, but it's an initiative that prevent Mr Dezfouli from his right to present properly to the Tribunal in order for the review to be carried out properly.

Richard Gulley: Mmmm, righto. Next.

Brett Collins: Umm, will you make a finding at some stage, do we talk about this....

Richard Gulley: No, I don't propose to make a finding that binds Justice Health on anything. It's their hospital not ours, we're merely visitors here.

Brett Collins: Right, well you do have the obligation though regarding his detention, care and treatment.

Richard Gulley: We do.

Brett Collins: So he has an entitlement and we would ask you to direct that he has access to education as according to the review that last, that was, the document last time....

Richard Gulley: Okay, well that's something we will need to consider having regard to your lengthy document on the education rights of forensic patients.

Brett Collins: There was an issue that was raised immediately on the same day as the last review. Mr Dezfouli and I prepared the document which has been here for six months and this, all this document does is support the arguments that

were previously presented to the Tribunal and where we had an undertaking that there would be a review within six weeks. Now that hasn't been carried out by the Tribunal. Mr Dezfouli has done his best, I have done my best.

Richard Gulley: Yep okay.

Brett Collins: But the Tribunal has its own obligations.

Richard Gulley: Now well we, you know, you're going back on what you said earlier and I've already said in relation to that I don't know what went through Justice... Mr Greg James' mind. But the fact is we're here today to conduct a review.

Brett Collins: So he has no and shouldn't have any expectations from the Tribunal. If they say something then he shouldn't have any expectations that they would carry it out.

Richard Gulley: I'm not going to debate that with you Mr Collins, you know that.

Brett Collins: It seems unfair for a man who's so dependant upon you for care treatment and release.

Richard Gulley: No, he's not dependent on his treatment upon us at all. He is dependant upon his treatment team for his treatment. He certainly, sir, hear me out, certainly the Tribunal can consider the question of release, certainly the Tribunal considers the question of care but the Tribunal doesn't interfere with treatment. You know that.

Brett Collins: Well treatment is one of the issues that the Mental Health Review Tribunal has up on its own website.

Richard Gulley: We make inquiries as to treatment but we don't direct the treating team to undertake certain avenues of treatment. You know that.

Brett Collins: Okay, so on issues of education, when you said last time that you would be taking it on board, in fact....

Richard Gulley: Alright, come on, move it on.

Saeed Dezfouli: In conjunction to my right to education, it's also backed up by section 68(h) of the *Mental Health Act 2007* and I would like to also under the provisions of section 43, 44 and 46 of *Mental Health Forensic Provision Act* to state for the record here in the last 10 and a half months of the year I have been under passive and active physical and mental torture. Twice I have been sexually harassed in the year by the staff, a number of times have been assaulted and every other week they assault me and restrain me to enforce medication.

Richard Gulley: Assault, Mr Dezfouli, you talk about in the context of the administration of medication, is that what you are saying?

Saeed Dezfouli: Yes. Under section 51 of the *NSW Crimes Act* touching a person without his or her consent is assaulting him. And they are touching me...

Richard Gulley: Thank you.

Saeed Dezfouli: ...without my consent.

Richard Gulley: What are your plans for the future? What would you like to do?

Saeed Dezfouli: I am in the process of renouncing my Australian Citizenship to get repatriated to my country of birth, Iran, because of my, all my civil, legal and human rights are being severely violated by NSW Justice Health and the system in whole.

Richard Gulley: And how are you going there?

Saeed Dezfouli: I am in the process of contacting my Embassy. I am in contact with Australian Department of Immigration and...

Richard Gulley: And are you having any luck?

Saeed Dezfouli: It is a very slow and lengthy procedure. Two Governments have to supervise the movement over this issue and I am in the process. I have put the cards on the table and it's going around.

Richard Gulley: And tell me, would you be able to tell the authorities here when you completed your enquiries what arrangements you can make in Iran for future treatment if necessary? Are you looking at it from that point of view too?

Saeed Dezfouli: They don't have a forensic system in Iran.

Richard Gulley: They do?

Saeed Dezfouli: No, they don't.

Richard Gulley: They don't.

Saeed Dezfouli: I will be a free man and I thank God for that.

Richard Gulley: Sorry, you?

Saeed Dezfouli: I will be a free man.

Brett Collins: Mr Chair can we enter here at this stage. That's one option that is available to Mr Dezfouli.

Richard Gulley: Yes, well he has been quite well in explaining that option to us, just a moment Brett. Yes, so you are going to continue to pursue that are you?

Saeed Dezfouli: I am, yes.

Richard Gulley: Ok, and do you see any light at the end of the tunnel if I could put it that way?

Saeed Dezfouli: Yes.

Richard Gulley: Yes, ok.

Brett Collins: Mr Chair if I could raise a second option, the second option that he actually remains.

Richard Gulley: I thought he could do that.

Brett Collins: Well, would you like me to refer to that.

Richard Gulley: Mr Dezfouli can speak for himself.

Saeed Dezfouli: He is the primary carer, he has...

Richard Gulley: I know that, but you are doing very well so let's keep going. So what's the other option? Release?

Saeed Dezfouli: The other option is to, umm, get released...

Richard Gulley: Mmm.

Saeed Dezfouli: ...while I am waiting for repatriation and it is the role of the Tribunal to issue my release order.

Brett Collins: And we are here in support of Mr Dezfouli and we have other support of people and organisations that are behind us. We have the Mental Health Coordinating Council, Mr Dezfouli has previously raised concerns about the lockdown that prevented him from coming out of his cell for a long period and Mr Dezfouli spearheaded an issue there that concerned all the Mental Health organisations across Australia and provided the basis of Mr Dezfouli

Richard Gulley: Ok, can I, thank you, now can I tell you something?

Brett Collins: ...and he gets support in response from that.

Richard Gulley: You say you have a lot of support in the community for Mr Dezfouli?

Brett Collins: We do indeed.

Richard Gulley: I note in reading this material yesterday that Mr Dezfouli has been in custody quote unquote since 2002 and he is still here in the Forensic Hospital.

Brett Collins: In high security.

Richard Gulley: Now the system is simply this and you know it, that if Mr Dezfouli wants release, the treating team tell us that's what they propose to make application: for conditional

release. So what you need to be doing with your enormous energy available here, Brett, is to concentrate on having an application brought before this Tribunal for release. Now to date, if my memory serves me right, nobody has been released conditionally from the Forensic Hospital.

Brett Collins: But there have been lots of recommendations that he be moved to Bunya...

Richard Gulley: Hang on, hang on, you're jumping the queue Brett.

Brett Collins: There has been a couple of years ago and so...

Richard Gulley: That may well be right. Now, one needs to consider the whole process and in considering the process, one needs to work towards obtaining a transfer - limited as it is, to Bunya or Morisset - from the Forensic Hospital so that you can engage in activities which would be conducive to people being released back in to the community.

Brett Collins: But why would Justice Health do that? Because Justice Health would prefer to use the lowest [*untranscribable*] area possible.

Richard Gulley: Justice Health will do what it wishes to do Brett.

Brett Collins: Yes I agree.

Richard Gulley: And I'm quite sure you know how to lobby Justice Health...

Brett Collins: We can lobby outside that. We don't depend on Justice Health.

Richard Gulley: ...as you have lobbied many organisations over the years.

Brett Collins: There are a lot of people who actually feel that Justice Health hasn't been looking after Dezfouli very well.

Richard Gulley: What he should be, and you should be, concentrating your energies on is getting Mr Dezfouli into a position where either Bunya is going to accept him or Morisset is going to accept him. Now, I think you need to approach that. Quite simply, this is the issue: we'd like to move him to either of those establishments. They will accept him if they feel that they can assist him. He needs to fit into the system in both those places. There's not a whole host of places out there where he can go to. You know that.

Brett Collins: Yes, sure.

Richard Gulley: So that's what you should be concentrating your enormous energies upon.

Brett Collins: But to be quite fair Mr Chair...

Richard Gulley: Getting him out of here into either Morisset or Bunya.

Brett Collins: And with Justice Health...

Richard Gulley: Look, if that becomes before us as an application for transfer, no doubt we would deal with it.

Breath Collins: That's already there. But surely, surely....

Richard Gulley: There's no application before us this morning for a transfer of Mr Dezfouli to either Bunya or Morisset.

Brett Collins: I think you will find that original letter that was...

Richard Gulley: There is no application before us this morning for a transfer to Bunya or Morisset. He may well have been assessed by Morisset, he may well have been assessed by Bunya but there's no application before us today.

Brett Collins: Six months ago for Peter's review we actually, the first issue was that Mr Dezfouli is a non-violent patient, he has been in for eight years. The original offence for which he is convicted was actually a cry for help and the only reason that that person was killed at all in the process was because the police didn't take his cry for help seriously. They let the women down, so Mr Dezfouli was, if he had been properly treated by the police in the first place that woman would never have died...

Richard Gulley: If, if, if Brett...

Brett Collins: ... and Mr Dezfouli wouldn't be here...

Richard Gulley: Look...

Brett Collins: But to be fair...

Richard Gulley: You and I have been debating these sorts of issues for years. If, if, if, if, if...

Brett Collins: It's a matter of public issue.

Richard Gulley: It didn't happen.

Brett Collins: It's a public interest.

Richard Gulley: Unfortunately, it didn't happen.

Brett Collins: Well Mr Dezfouli hasn't got a violent background, he has been here eight years.

Richard Gulley: No...

Brett Collins: Why should he not be in. Why should he not be able to get [*untranscribable*] security.

Richard Gulley: You, I...

Brett Collins: To be fair we are paying \$200,000 a year for this man.

Richard Gulley: I don't disagree with you but what I'm trying to do is focus your enormous abilities in one particular direction.

Brett Collins: Yes, but it's a move to Bunya or Morisset from here.

Brett Collins: It's asking Justice Health to do things that it doesn't want to do.

Richard Gulley: Well be nice to them.

Brett Collins: Yes but being nice to them means in fact acknowledging that they are right but they are wrong.

Richard Gulley: Oh sometimes Brett a little bit of humility doesn't go astray when you are seeking to achieve an objective.

Brett Collins: They are not even talking to us or responding to us properly. We have people within Justice Health as well who want us to deal with them properly. Justice Health properly...

Richard Gulley: You know the system and you know exactly what you've got to do.

Brett Collins: Sure, absolutely.

Richard Gulley: Piling us up with paper this morning doesn't help.

Brett Collins: All we are doing is taping the material in order that it can be used in a wider forum.

Richard Gulley: It may well be used at the next review. Now you know that you can have reviews from time to time without waiting for the period of six months.

Brett Collins: Yes, yes, but we need something from Justice Health. A statement of goodwill from Justice Health.

Richard Gulley: Keep trying.

Brett Collins: They are not giving it to us.

Richard Gulley: Well I can't direct them.

Brett Collins: Well they won't even allow our support people to come in beside us, they actually blocked them as well.

Richard Gulley: Well I'm not so necessarily sure that you need your support people here.

Brett Collins: But Mr Dezfouli is entitled to have them and so is the Tribunal.

Richard Gulley: He may well be but I'm not so sure that's the be all and end all of everything, having your support people.

Brett Collins: It's a farce, it's disappointing [*untranscribable*].

Richard Gulley: I'm quite sure with your talents you're able to speak for anybody in this room. Now there's a half a dozen support people here I'm sure you would be still speaking for them collectively wouldn't you.

Brett Collins: Ok, well.

Richard Gulley: Yeah, well I don't doubt that. Now let's get on with this review. Let's deal with these issues today. How is he getting on today? Thank you, we have heard enough from you for the moment. We are going to talk to the treating team. Amazingly enough, because that's what we have to do.

Doctor O'Dea, good morning Sir.

Doctor O'Dea: Good morning.

Richard Gulley: How is Mr Dezfouli getting on?

Doctor O'Dea: Well as I have written in the reports...

Richard Gulley: In your reports.

Doctor O'Dea: ... I supplied to the Tribunal, I'd be happy to read that out.

Richard Gulley: Anything you would like to add?

Doctor O'Dea: No.

Richard Gulley: Okay.

Saeed Dezfouli: I would like to put my objection on the record.

Richard Gulley: You may do so, what is it?

Saeed Dezfouli: This is 90% identical to the previous report. The only make... the only difference is his opinion of accommodation and that I've been referred to Morisset Hospital. But the rest of this information is pathetic and identical to the previous report that was written by Jeremy O'Dea.

Richard Gulley: Ok.

Saeed Dezfouli: It is one-sided, their version of the story and the case and situation.

Richard Gulley: Yep, alright. So you see, Doctor O'Dea, there's a need to continue with the current treatment program at the Forensic Hospital?

Doctor O'Dea: Yes that's correct, that's my opinion and recommendation at the present time.

Saeed Dezfouli: You see his opinion is based on lack of communication. I have had him as my treating Doctor since November 2007 and he was appointed as my treating Doctor. There is no rapport, I have no trust and respect for him, I don't talk to him, I don't communicate with him, he is not

capable of being my treating Doctor and writing reports. I have written in my original application to Greg James to have Doctor Ventura as my treating Doctor.

Richard Gulley: You can't change that. Greg James can't order that. You know that.

Saeed Dezfouli: Well considering the review of my care and treatment that would have been a recommendation from the Tribunal that documents that Doctor Jeremy O'Dea is providing is false, fabricated, misleading and inaccurate and wrongful.

Richard Gulley: Well that's what you say, but you know that, that the Tribunal can't interfere with the treatment or appointment of treating professionals and [untranscribable]. That's not its role.

Saeed Dezfouli: Okay, this Tribunal can consider the fact that this document that Jeremy O'Dea is providing is evidence is false and fabricated and misleading and inaccurate and wrongful which is in violation of health privacy principles of New South Wales.

Richard Gulley: Okay. Anything else you want to add Doctor, any questions?

Doctor O'Dea: No.

Richard Gulley: Now, good morning.

Female: Good morning.

Richard Gulley: What would you like to add from the treating team?

Female: Um, as I guess, I'll just refer back to my report, I had been saying...

Richard Gulley: Yes, anything you want to add?

1st Female: Not in terms of individual therapy, but I guess the most I have noticed, especially in the last week or so, that Mr Dezfouli has been attending quite a few of the programs on the ward and that's been a significant improvement that we've all observed, so he's been engaging in, um, ward activities...

2nd Female: That's good.

1st Female: ... and participating.

2nd Female: Yes, excellent.

Richard Gulley: That's good. Do you agree with that?

Saeed Dezfouli: It is due to my boredom, yes. Because they have a sit down, put up or shut up policy. In here in front of the TV. It was due to my stress and anxiety and boredom I participated in some of the activities that ...

Richard Gulley: Don't you think it might be doing you some good? Don't you think it might help you?

Saeed Dezfouli: It what way?

Richard Gulley: Don't you think it might help you mentally, physically? Rather than just sitting around doing nothing?

Saeed Dezfouli: That's why I attended.

Richard Gulley: Do you get anything from these sessions that you attend?

Saeed Dezfouli: I get rid of my boredom for half an hour.

Richard Gulley: That's very good of you. Ok, anything else you would like to add? Nurses' point of view?

Jane Talty(?): Social worker point of view.

Richard Gulley: I'm sorry.

Jane Talty(?): That's ok, nurses are good, I like nurses. I guess from my point of view, with Saeed, we chat sometimes and I just try to and encourage him to maybe attend groups or do some of that sort of stuff to alleviate the boredom or for whatever reasons, and that if he does attend groups and participate in that way, then maybe eventually that will make it a little bit easier for him to get a referral. There is a referral for him to go to another facility. So in light of that, that's why I try and encourage him to, to attend groups and participate.

Richard Gulley: Questions?

Doctor O'Dea: I don't think I have any questions, thank you.

Richard Gulley: Thank you doctor.

Female: No, I'm fine thank you.

Richard Gulley: Alright. Now I'm not going to give you an open invitation to address this Tribunal for the rest of the day.

Brett Collins: I have a couple of words that I'd like to say. I, um...

Richard Gulley: I wish at times I had a bell I could ring. Go ahead.

Brett Collins: Um, look, as a lay person come in to the scene like a few years ago, I always, I always felt that, um that, we would have goodwill of the, um, health fraternity to assist the man who is in an unfortunate situation.

Richard Gulley: We're trying, we're trying.

Brett Collins: Yet I find enormous [*untranscribable*] that I'm not able to deal with Mr...

Richard Gulley: Doctor O'Dea

Brett Collins Dr O'Dea and likewise Mr Dezfouli has responded to Doctor O'Dea. It's a shame that we aren't able to work together in order to progress Mr Dezfouli through if nothing else to save some money and during the previous preceding six months all I've had as primary carer is a sense of being unwelcome and to stay away and yet I only have the best of goodwill for Mr Dezfouli and we're friends and we have been for a long time. So I am really sad that I'm not able to work with the treating team and can't even send an email to get a response from Doctor O'Dea. I can understand...

Richard Gulley: Dr O'Dea.

Brett Collins: Mr Dezfouli is feeling really concerned about being left under the control of Mr O'Dea, um, as the gatekeeper for his release, er, and so I think there is a very good basis on which Justice Health should and also the MHRT

should suggest that a change of the treating team would be advisable unless something has been proposed before and I think coming from the MHRT. My understanding is you have control over detention, care, treatment and treatment and release and if that's not the case – I took this from the website and if that's the case then truly you have an obligation to ensure that he gets the best care. If he's not getting care from the head of his treating team. This is no reflection on Mr O'Dea, sometimes it's a personality in conflict.

Richard Gulley: He's still Doctor O'Dea, Brett. Stop that.

Brett Collins: Ok. So why should there be an opportunity for a collaborative approach to the health care of Mr Dezfouli. We're prepared to be part of it. I'm not able to communicate with Mr O'Dea and he won't respond to my emails. And when I'm putting, raising reasonable issues which are rights for Mr Dezfouli, and they're just treated with contempt. So you know I think that it's fair that we move on and rather than saying to Mr Dezfouli, you....

Richard Gulley: What would you like to say about the continuation of his care treatment and detention at the Forensic Hospital?

Brett Collins: We ask that Mr Dezfouli be released into Justice Action or to me personally as his primary carer and we have a period of some weeks.

Richard Gulley: Can I just stop you at this point. I'm unaware of your qualifications in the area of mental health. I'm aware of your qualifications in relation to DCS people and that area but it comes as news to me that you now have expertise in the area of mental health. Am I right on that?

Brett Collins: I did post graduate diploma in criminology, one under Peter O'Shea and so one of the sections of the Forensic [untranscribable] and also the description here of, er, in the document of the family and carer involvement. It doesn't really represent the support that he is getting from Justice Action. It says Brett Collins. It's listed he has no family or current significant relationship involved in at present. Brett Collins from Justice Action who we nominate as his primary carer. 'Justice Action is a community based organisation of criminal activists who advocate for penal reform.' Now that's really an unfair representation of what Justice Action stands for. We stand for, well we presented to the United Nations Special Rapporteur on health last year as a one of a group of 20 talking with them, with him, about our concerns about health for people in detention and we used Mr Dezfouli's case as an example of how health for detainees and not just prisoners, forensic patients and juvenile justice detainees and refugees all representing on the health issue, how Mr Dezfouli's case highlit how poorly the health dollar was being spent for detainees. So my entitlement to speak for Mr Dezfouli and offer him support has, is, is...

Richard Gulley: I accept that you're entitled to do that.

Brett Collins: Well...

Richard Gulley: I'm not too sure I accept that you're entitled to interfere with his medical treatment.

Brett Collins: Well I have represented for all detainees in Australia to the United Nations Special Rapporteur on health.

Saeed Dezfouli: Specifically speaking on my case under provision of Section 368, 105 of *NSW Mental Health Act 2007* as a primary carer he has every right to be involved and his [untranscribable] and duty of the Justice Health to be involved in my care and treatment.

Brett Collins: And we are willing to do so. And we are.

Doctor O'Dea: Could I perhaps, to assist the Tribunal, respond to a couple of these things?

Richard Gulley: I was going to come back to you in a minute, yeah. I'd rather let Mr Collins finish what he was saying first but I didn't want to engage in long debate. Go on.

Brett Collins: We ask that there at least be a trajectory which both we can look at and Mr Dezfouli can look at for his release, and in which we can participate and bring our support people into support in as well. And we would like Mr Dezfouli to be released as soon as possible as he is not a risk to the community, he has never been a risk to the community as long as he is being listened to and we are prepared to listen to him and work as his mentor and primary carer.

Richard Gulley: Thank you. Ok, Doctor O'Dea.

Doctor O'Dea: Yes I was just going to assist the Tribunal...

Richard Gulley: Thank you, sir.

Doctor O'Dea: ... rather than getting into a debate.

Richard Gulley: Thank you very much.

Doctor O'Dea: Focus on two things that Mr Collins raised and to respond to them in saying that I appreciate him doing so that we have a difference of opinion. And the first is the issue about the treating psychiatrist. We are very aware in Justice Health that Mr Dezfouli has, since I've been appointed his psychiatrist, repeatedly requested a change of psychiatrist. We've continued to assess that situation and taken the view from a clinical perspective that that is not clinically indicated at the present time and we've discussed that as best as possible with Mr Dezfouli and his primary carer. It is of note that Mr Dezfouli has had problems communicating with um all of the psychiatrists that have been appointed as his treating psychiatrists as documented. Again, that's part of the decision making. We don't feel that this is clinically indicated at the present time.

Brett Collins: [untranscribable]

Richard Gulley: Brett.

Doctor O'Dea: The other issue is the issue of Mr Collins raising his concern, which I appreciate and I acknowledge about him not feeling welcome. The issue is that we are endeavouring to try and accommodate him in his role as Mr Dezfouli's primary carer under the *Mental Health Act*. I think it's probably fair to say that how that role is implemented, is um there is a difference of opinion between Mr Collins, it would appear, and the treating team...

Brett Collins: In what way?

Doctor O'Dea: ... and that we're happy to keep him involved in Mr Dezfouli's treatment. I think the difference is in how that involvement is actually executed...

Brett Collins: By communicating, surely.

Doctor O'Dea: ...that there is differences of opinion there and um but we will continue to accommodate Mr Collins as best we can...

Brett Collins: But you haven't responded to emails.

Doctor O'Dea: ... and as Mr Dezfouli's, um, primary carer.

Brett Collins: But you haven't responded to emails. You know. Do you?

Doctor O'Dea: I don't want to get into a debate..

Female: No.

Doctor O'Dea: ... about it.

Richard Gulley: No, Brett, I'm not going to allow that debate.

Brett Collins: OK, fair enough, but it just, it just...

Doctor O'Dea: And that is true. I haven't responded to your emails and I've made it clear that I'm not going to...

Brett Collins: Why?

Doctor O'Dea: ... engage as the primary carer

Richard Gulley: Brett.

Doctor O'Dea: ...in an email relationship.

Female: Can I...

Doctor O'Dea: I'm very happy to talk at other times face to face discharging my responsibilities under the *Mental Health Act*. And, er, what we're looking at, to get back to, first principles is the best care and treatment for Mr Dezfouli so, as you referred to, he can move through the system as quickly as possible into the community.

Brett Collins: [untranscribable]

Richard Gulley: Brett, doesn't help.

Brett Collins: No, no. I got you. I got you. I...

Richard Gulley: We know all that. We know he's been here since 2002.

Brett Collins: Sure.

Richard Gulley: Aware of all of that. Ok, would there be any reason that the Tribunal, under Section 46(1), should not recommend, should not, um, continue his care treatment and detention at Forensic Hospital as far as you're concerned Doctor?

Doctor O'Dea: No.

Richard Gulley: Thank you. Thank you very much for your contribution sir, as principle carer. Thank you very much Mr Dezfouli.

I hope after today we know where we're going and all your issues we will take on board and the only undertaking I will give you, one, is that I will discuss it with the President next week.

Brett Collins: OK. We will know what the result of that is?

Richard Gulley: Oh I'm sure you will, because you'll ask. Whether the President tells you or not is a matter for the President. In the meantime, the current arrangements for Mr Dezfouli's care treatment and detention continue at the Forensic Hospital. Thank you very much, good afternoon.