



Law Project for Psychiatric Rights
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Attorney for Appellant

IN THE SUPREME COURT FOR THE STATE OF ALASKA

WILLIAM BIGLEY,)
Appellant,) Supreme Court No. S-13353
)
vs.)
)
ALASKA PSYCHIATRIC INSTITUTE)
Appellee.)
_____) Trial Court Case No. 3AN 08-1252 P/R

MOTION TO DISMISS APPEAL

Appellant William Bigley hereby moves to dismiss this appeal pursuant to Appellate Rule 511(b). Because

- (i) Mr. Bigley failed in his attempt to obtain a stay of the Superior Court's November 25, 2008, forced drugging order pending appeal, and
- (ii) the 90-day involuntary commitment Order also appealed herein will have long expired before this Court will rule on this appeal,

it does not appear any practical relief can be obtained for Mr. Bigley in this appeal that would not be obtained in his appeal under Case No. S-13116. Thus, even though the judgment is still in place and therefore this appeal may not be technically moot under *City of Valdez v. Gavora*, 692 P.2d 959, 960 (Alaska 1984) and *United States Bancorp*

Mortgage Co., v. Bonner Mall Partnership, 513 U.S. 18, 115 S.Ct. 386 (US 1994), it seems pointless for Mr. Bigley to pursue this particular appeal.

For other possible appellants the continued existence of a judgment that they (a) were mentally ill and a danger to themselves or others and (b) were incompetent to decline the drugs, would be a reason to continue an appeal, but for this particular appellant, who has many such judgments, it is not. The determination that the stay pending appeal in S-13116 does not apply to the forced drugging order issued below in this appeal, and the Superior Court's and this Court's denials of Mr. Bigley's motion for a stay pending appeal here, means there is now no relief that this Court could order here that can't be provided in S-13116, which is now ripe for decision.

In addition to preventing being drugged against his will pending a determination of his rights in this appeal, Mr. Bigley sought three things in this appeal: (1) a decision reversing the Superior Court's conclusion that the forced drugging was in his best interests, (2) an order requiring the state to provide him with an available less intrusive alternative, and (3) a decision that the 90-day commitment order was improperly granted. Absent the currently pending appeal of S-13116, it would make sense to continue the appeal, especially to obtain an order requiring the state to provide Mr. Bigley with an available less intrusive alternative. However, S-13116 is currently ripe for decision and if Mr. Bigley does not obtain an order from this Court in that appeal requiring the State to provide an available less intrusive alternative, it does not seem possible to obtain such relief in this appeal. It is for these reasons Mr. Bigley moves to dismiss this appeal.

Appellate Rule 511(c) provides that a motion to dismiss under Appellate Rule 511(b) include a certification that the settlement information required under AS 09.68.130 and Appellate Rule 511(c) has been submitted to the Alaska Judicial Council unless exempted under AS 09.68.130 and Appellate Rule 511(e). Such information has not been provided because Mr. Bigley believes the certification requirement does not apply. First, civil commitment and forced drugging cases under AS 47.30 are the same sorts of cases exempted by both the statute and the rule and it appears the rule and statute overlooked them. Second, the type of information to be provided on the Judicial Council form is inapplicable to this type of case. Third, Appellee Alaska Psychiatric Institute (API) has cross-appealed the November 25, 2008, Order appealed here under Case No. S-13353 and therefore this case has not been resolved.

Dated this 16th day of January, 2009.

LAW PROJECT FOR PSYCHIATRIC RIGHTS

By: 

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