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2 IN THE SUPREME COURT FOR THE STATE OF ALASKA

3 ROSYLYN WETHERHORN,)
4)
5 Appellant,)
6)
7 v.)
8)
9 ALASKA PSYCHIATRIC INSTITUTE,)
10)
11 Appellee.)

RECEIVED
FEB 12 2007

Supreme Court No. S-11939

Case Number 3AN-05-459 PR

12 **PARTIAL NON-OPPOSITION TO PETITION FOR REHEARING**

13 Appellee Alaska Psychiatric Institute (API) does not oppose Wetherhorn's
14 petition for rehearing except to the extent that it requests a reversal of the commitment
15 order. Otherwise, API agrees that it would be appropriate for the Court to either vacate
16 the 30-day commitment order or clarify that in affirming the order, the Court was
17 expressing no opinion as to whether the facts on record, now moot, meet
18 AS 47.30.915(7)(B)'s gravely disabled standard, as construed by the Court. Neither
19 course changes the main outcome of the case,¹ but the requested clarification or
20 adjustment is important to Wetherhorn and would remove an ambiguity in the current
21 opinion.

22 API does not agree, however, that a reversal of the commitment order is
23 appropriate on rehearing. This Court found and Wetherhorn does not challenge that the
24

25 _____
26 ¹ For instance, neither adjustment would change the Court's consideration of which party, if any, prevailed in either defending or attacking the gravely disabled standard.

DEPARTMENT OF LAW
OFFICE OF THE ATTORNEY GENERAL
ANCHORAGE BRANCH
1031 W. FOURTH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501
PHONE: (907) 269-5100

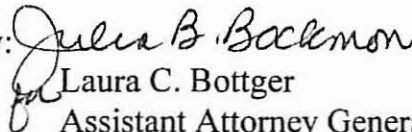
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2 issue is moot. *See Wetherhorn v. API*, S-11939, Slip Op. 6091 at 18-19. Under those
3 circumstances, the Court did not err in refraining from considering whether the facts
4 presented at the hearing supported commitment.

5
6 Should the Court decide to entertain the moot question on rehearing, API
7 asserts that the facts presented do justify commitment under the subsection B gravely
8 disabled standard as construed by the Court. The facts the Court recited in its decision, *id.*
9 at 19, strongly indicate that Ms. Wetherhorn was in fact in peril and not capable of living
10 safely in freedom. For instance, her delusions and aggressive behavior would support a
11 finding that she was not safe outside of a controlled environment. *Id.* Indeed, Ms.
12 Wetherhorn herself stated at the hearing that agreed she should stay at API until she
13 improved. *Id.*

14
15 For the reasons stated above, API respectfully suggests that the petition for
16 rehearing be granted for the purpose of either vacating the 30-day commitment order or
17 clarifying that in affirming the order, the Court was expressing no opinion as to whether
18 the facts, now moot, justified commitment.

19
20 DATED this 9th day of February, 2007, at Anchorage, Alaska.

21
22 TALIS J. COLBERG
ATTORNEY GENERAL

23
24 By: 
Laura C. Bottger
Assistant Attorney General
ABA No. 9509040

25
26 API's Partial Non-Opposition to Petition for Rehearing
Wetherhorn v. API, S-11939

DEPARTMENT OF LAW
OFFICE OF THE ATTORNEY GENERAL
ANCHORAGE BRANCH
1031 W. FOURTH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501
PHONE: (907) 269-5100

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This is to certify that on this date, a copy of the foregoing is being mailed to:

James B. Gottstein
Law Projects for Psychiatric Rights
406 G Street, Suite 206
Anchorage, AK 99501

I further certify the font used in the aforementioned document is Times New Roman 13 point.

Ann Vigil 2/9/07
Law Office Assistant Date

API's Partial Non-Opposition to Petition for Rehearing
Wetherhorn v. API, S-11939