

# In the Supreme Court of the State of Alaska

Faith J. Myers,

Appellant(s),

v.

Alaska Psychiatric Institute,

Appellee(s).

Supreme Court No. S-11021

## Order

Date of Order: 6/25/04

Trial Court Case # 3AN-03-00277PR

Before: Bryner, Chief Justice, Matthews, Eastaugh, Fabe, Justices, (Carpeneti, Justice, not participating).

### IT IS ORDERED, SUA SPONTE:

The parties are asked to submit supplemental briefs on the following issues:

1. Assuming, for the sake of discussion, that the Alaska Constitution requires a judicial determination of best interests before the state could be authorized to subject a committed mental patient to involuntary non-emergency treatment with psychotropic medication,

a. What standard of review would the superior court apply in determining the issue of the patient's best interests?

b. Would the standard of judicial review change if clear procedural rules and substantive standards were adopted under AS 47.30.660(b)(14) & (16) to guide the treatment facility in determining whether the patient's best interest required involuntary administration of psychotropic medication for purposes of requesting a court order under AS 47.30.839?

2. Under current Alaska law, is a de novo judicial determination of best interests generally required before non-emergency medical

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treatment may be administered to a person who lacks capacity to give informed consent and has no other alternative form of consent available?  
*Cf. In the Matter of C.D.M. v. State*, 627 P.2d 607, 611 (Alaska 1981).

The supplemental briefs shall cite and discuss all relevant authority addressing these issues. Briefing shall conform to the requirements of Appellate Rule 212; appellant's supplemental brief will be due on or before **July 26, 2004**; appellee's supplemental brief will be due **30** days after service of the appellant's supplemental brief; appellant may file a supplemental reply brief within **20** days after service of the appellee's supplemental brief.

Unless otherwise ordered, no additional oral argument will be held.

Entered by direction of the court.

Clerk of the Appellate Courts

  
Deputy Clerk

cc: Supreme Court Justices

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