

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

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)
) Date of Order: 12/4/03

Trial Court Case # 3AN-03-00277PR

Appellee has moved to supplement the record on appeal with the affidavit of Ronald M. Adler executed 11/28/03. Appellant opposes the motion and suggests alternatives.

IT IS ORDERED:

1. The motion to supplement is **DENIED**. The record on appeal is properly limited to documents available to the superior court. The Adler affidavit, which bears the Supreme Court caption, was not even executed until well after this appeal was commenced and briefing was in progress. Indeed, the appellant's brief was filed even before the Adler affidavit was executed.

2. Appellee contends that the appeal is moot, and that the Adler affidavit is evidence of its mootness.

3. Appellant seems to suggest that other record documents, or documents of which this court may arguably take judicial notice, would be equally relevant to any mootness argument. If so, there is no need to supplement the record.

4. If appellee wishes to argue that the appeal is moot, it should file an appropriate motion to dismiss. It may support that motion with relevant documents even though they are not in the appellate record. If the state intends to raise mootness as a grounds for dismissal, its motion papers should be submitted in time that the motion to dismiss will be fully briefed by the conclusion of the appellate briefing, so that the court can reach all issues, including mootness if it is an issue, when it hears argument or takes the case under advisement if the case is submitted on the briefs.

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Entered by direction of an individual Justice.

Clerk of the Appellate Courts


Deputy Clerk

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