

IN THE SUPREME COURT OF THE STATE OF ALASKA

In the Matter of a Request for Information.)
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Supreme Court No.: S-16812

Trial Court Case No.: 3AN-16-00695DN

OPPOSITION TO DR. GOTSZCHE'S MOTION TO REASSUME JURISDICTION AND ORDER RELIEF

Respondent Alaska Psychiatric Institute (API) opposes Dr. Gotzsche's motion in this matter.

First, the motion is improper because there is no pending matter before this Court in which a motion can be filed. In 2017, Mr. James Gottstein (Dr. Gotzsche's attorney) filed an original application for relief in this Court, No. S-16812. The Court partially granted the application for relief, instructing the superior court to rule on the request for information referred to in the original application. Concluding the order, the Court expressly stated: "We do not retain jurisdiction." Because the Court did not retain jurisdiction, there is no longer any pending matter before this Court in which to file a motion. The motion is, in essence, a second original application for relief that does not conform to Appellate Rule 404. It should therefore be denied.

Even if this motion conformed to Appellate Rule 404's requirements for original applications for relief, it would still be without merit. An original application for relief

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will be granted only if “relief is not available from any other court.”¹ Here, it appears that the superior court has simply lost track of the matter; Dr. Gotzsche could file a request for ruling with the superior court to prompt a decision. If no response or acknowledgment from the superior court were forthcoming, only then would it appear that relief would not be available from that court.² Until it is established that relief is not available from the superior court, Dr. Gotzsche’s nonconforming original application for relief is misplaced. And even if the Court were to overlook the procedural and jurisdictional deficiencies with Dr. Gotzsche’s pleading and simply consider on practical grounds whether the motion should be granted, the answer is still no. Dr. Gotzsche should request the superior court for a ruling directly rather than seek to enlist this Court’s appellate jurisdiction to do the same thing.

DATED February 27, 2019

KEVIN G. CLARKSON
ATTORNEY GENERAL

By:


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¹ Alaska R. App. P. 404(a)(1).

² If the superior court’s decision were adverse to Dr. Gotzsche, then the proper procedure would be to appeal. See Alaska R. App. P. 404(a)(1) (original application for relief may be filed “whenever relief is not available from any other court and cannot be obtained through the process of appeal, petition for review, or petition for hearing.”)

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CERTIFICATE OF SERVICE

I hereby certify that on this date, a true and correct copy of *Opposition to Dr. Gotszche's Motion to Reassume Jurisdiction and Order Relief* and this *Certificate of Service* were served by U.S. Mail on the following:

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