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# In the Supreme Court of

Faith J. Myers, )  
 )  
 Appellant(s,) )  
 v. )  
 )  
 Alaska Psychiatric Institute, )  
 )  
 Appellee(s). )

Supreme Court No. S-11021

## Order

Date of Order: 4/30/03

Trial Court Case # 3AN-03-00277PR

On consideration of the motion to appeal at public expense including waiver of filing fee and cost bond filed 4/14/03,

**IT IS ORDERED:** The motion to appeal at public expense is **GRANTED**.

Appellant has moved for a stay of that portion of the superior court order permitting psychotropic medication to be administered to her, and appellee has opposed the motion. Because the parties have both supported their arguments with assertions of fact relevant to the standards that govern the availability of a stay pending appeal, because it appears there are unresolved factual disputes about whether administering the medication to appellant while the appeal is before this court will be harmful to appellant, because the disputes may (according to the parties) implicate the credibility of expert witnesses and the scientific validity of their opinions, and because it will be much more effective for the parties to litigate in the superior court any factual disputes material to a stay on appeal,

**IT IS ORDERED:**

1. The issue whether the administration-of-medication order should be stayed pending the appeal is remanded to the superior court for resolution of all material factual disputes relevant to the criteria for granting a stay pending appeal. The court has discretion to decide whether to permit additional briefing and fact submissions on that topic.

2. The motion for stay directed to this court is held in abeyance pending entry of a superior court order granting or denying a stay pending appeal.

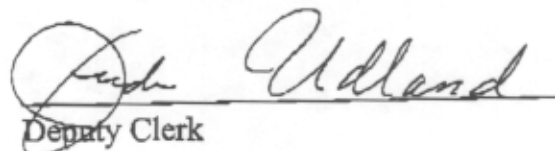
3. If the superior court enters an order denying a stay, the order should have an effective date that gives appellant at least seven days in which to inform this court of the need to decide the stay motion addressed to it, and in which to submit any additional support for her motion.

4. The court reads the 3/14/03 superior court stay order as granting a stay that (given the appellant's motion addressed to this court) is presently in effect, and remains in effect until this court grants or denies a stay, and considers this remand order not to be a "ruling" that automatically triggers the "until" clause in the last line of paragraph 2 of the March 14 stay order. There consequently seems no need for this court to grant an interim stay pending action on remand. If that reading of the March 14 order is incorrect, this court hereby grants an interim stay pending issuance of a post-remand superior court order granting or denying a stay of the administration-of-medication order, and allowing at least seven days for appellant to return to this court to decide the stay motion that is being held in abeyance.

5. The parties should advise the court in writing whether any remand proceedings on the stay issue will delay progress of the appeal.

Entered by direction of an individual Justice.

Clerk of the Appellate Courts

  
Deputy Clerk

cc: Trial Court Judge Christen

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