

Law Project for Psychiatric Rights  
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Attorney for Appellant

IN THE SUPREME COURT FOR THE STATE OF ALASKA

WILLIAM BIGLEY, )  
Appellant, ) Supreme Court No. S-13116  
)  
vs. )  
)  
ALASKA PSYCHIATRIC INSTITUTE )  
Appellee. )  
\_\_\_\_\_ ) Trial Court Case No. 3AN 08-493 P/R

MOTION TO PUBLISH MAY 23, 2008 ORDER  
GRANTING STAY PENDING APPEAL

Appellant, by and through counsel, hereby moves this Court to publish in the Pacific Reporter its May 23, 2008, Order granting a stay pending appeal, full court reconsideration of which was denied June 25, 2008 (Stay Order).

The reason for this motion is publishing the Stay Order will give appellants and the trial courts guidance on the standards or criteria for stays pending appeal. The 1975 case of *Powell v. City of Anchorage*<sup>1</sup> is the only published Alaska case counsel for Appellant could locate regarding the standards or criteria for considering motions for stays pending appeal and it is the only case cited by the Alaska Psychiatric Institute in its opposition to the motion for stay pending appeal in this case.

<sup>1</sup> 536 P.2d 1228, 1229 (Alaska 1975)

The core holding of *Powell* on the stay pending appeal issue is:

Whether a stay of an injunction pending appeal will be granted is a question directed to the sound discretion of the court. In considering whether to grant such an injunction, the lower court must consider criteria much the same as it would in determining whether to grant a preliminary injunction.<sup>2</sup>

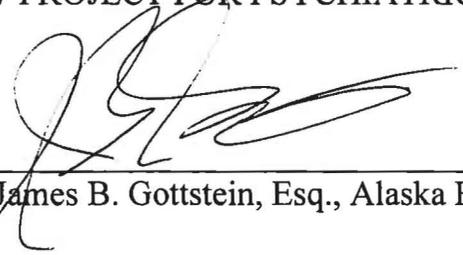
Thus, it is not clear by the language in *Powell* that it applies to motions for stay pending appeal not involving an injunction. Appellants researching the standards or criteria for granting a stay pending appeal not involving an injunction would not necessarily understand *Powell* applies. Similarly, the cases cited in the annotations following Appellate Rule 205 in the Official Version of the Alaska Rules of Court (Tower Publishing) do not cite to any case which sets forth the standards or criteria for granting or denying a stay pending appeal not involving an injunction.

In sum, there appears to be no decision published in the Pacific Reporter setting forth the standards or criteria for granting stays pending appeal in Alaska not involving an injunction. The Stay Order here sets forth both the standards or criteria and then, which is also helpful, applies them to the facts in this case.

For these reasons, Appellant respectfully requests this Court to publish in the Pacific Reporter the Stay Order issued in this case.

Dated this 7th day of July, 2008, at Anchorage, Alaska.

LAW PROJECT FOR PSYCHIATRIC RIGHTS

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<sup>2</sup> *Id.*, footnotes omitted.