Hertz v. Cleary
PC-AK-001-002

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

MICHAEL CLEARY, et al., Plaintiffs, vs. ROBERT SMITH, et al., Defendants.	Case No. 3AN-81-5274 CI

MOTION TO RECONSIDER DECISION AND ORDER:
DEFENDANT'S MOTION FOR RELIEF FROM JUDGMENT

Plaintiffs hereby move, pursuant to Civil Rule 77(k), for reconsideration of the court's Decision and Order dated October 25, 1993, granting the Department of Corrections' Motion for Relief from Judgment to permanently increase the maximum capacity of Fairbanks Correctional Center by two inmates and Spring Creek Correctional Center by fifty inmates. In reaching its decision, the court overlooked or misconceived material facts that negate the alleged "change in circumstance" that is a precondition for relief from judgment. ARCP 77(k)(1)(ii). The court also failed to consider whether temporary changes in circumstance can justify permanent modification of a final settlement agreement. ACRP 77(k)(1)(i). This motion is supported by the attached memorandum and exhibits.

DATED at Anchorage, Alaska this 4th day of November, 1993.

RICE, VOLLAND AND GLEASON, P.C.
Attorneys for Plaintiffs

By R. Scott Taylor for
Philip R. Volland

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11/18/93 cc: R. Wms
Wm. Oberly
R. Daszkiewicz

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT

MICHAEL CLEARY, et al., Plaintiffs,	)	
vs.	)	
ROBERT SMITH, et al., Defendants.	)	No. 3AN-81-5274 Civil

AFFIDAVIT OF SERVICE

STATE OF ALASKA)
: ss.
THIRD JUDICIAL DISTRICT)

Cheri Soria, being first duly sworn, hereby deposes and states: that I am an employee of the law firm of Rice, Volland, and Gleason, P.C., in Anchorage, Alaska, and that on November 4, 1993, I caused to be served, by mail a true and correct copy of Motion for Certification of Judgment Pursuant to Rule 54(b), Memorandum in support thereof, proposed Certification, Motion to Reconsider Decision and Order: Defendant's Motion For Relief From Judgment and Memorandum in support thereof, on:

Michael J. Stark
Assistant Attorney General
P.O. Box KC
Juneau, Alaska 99811

Cheri Soria

SUBSCRIBED AND SWORN TO before me on November 4, 1993, at Anchorage, Alaska.

Patricia A. Sherman
Notary Public in and for Alaska
My commission expires: 3-26-97

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