

In the Court of Appeals of the State of Alaska

David Haeg,)
)
 Appellant,)
 v.)
)
 State of Alaska,)
)
 Appellee.)

Court of Appeals No. A-09455

Order *Faxed to parties 11-16-06 SB*

Date of Order: 11/16/06

Trial Court Case # **4MC-04-00024CR**

Before: Coats, Chief Judge, and Mannheimer and Stewart, Judges.

Haeg has filed a motion for the return of certain property seized by the State in this case. From the limited record before us, it appears that property was seized under the authority of a search warrant. Alaska Criminal Rule 37(c) provides an opportunity for a person to seek the return of property seized under a search warrant. Apparently, however, Haeg has not filed a motion under Criminal Rule 37(c).

Haeg still has the opportunity to ask the trial court for return of the property. Alternatively, the State may seek to forfeit the property. All of these issues are matters which Haeg or the State must first raise in the trial court. And the trial court must decide these issues before Haeg (or the State) can ask for appellate review. For this reason, Haeg's current motion — asking this Court to order the return of his property — is not proper at this time.

Haeg also asks this court to stay his appeal until his post-conviction relief application is decided. But the law allows Haeg to pursue an appeal and a petition for post-conviction relief at the same time. We therefore deny Haeg's request to stay his appeal.

Haeg asks to supplement the record on appeal with various items that apparently were not presented to the trial court. That motion is denied. The record on appeal is to consist solely of evidence and documents presented to the trial court during the proceedings that we are being asked to review. See Appellate Rule 210(a).

Haeg asks this Court to grant him summary judgment on his appeal. The Appellate Rules do not provide for this Court to grant summary judgment in an appeal.

Haeg also asks this court to modify the portion of his sentence that calls for revocation of his guide license. We have the power to grant this kind of relief only if the trial court had no legal authority to revoke Haeg's license, or if the trial court was clearly mistaken in deciding to impose a license revocation as opposed to a suspension. In either event, we would not grant such relief until we decided Haeg's appeal.

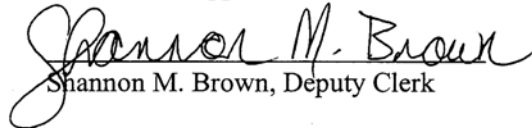
Finally, Haeg asks us to stay the revocation of his guide license. This type of request is governed by Appellate Rule 206(a)(4). Under this rule, a defendant's request to stay the revocation or suspension of a license must first be presented to the trial court. Haeg can ask this Court to intervene only if the trial court does not grant his request.

If Haeg has already asked the trial court for a stay, and if his request was denied, Haeg can again ask this Court review the matter. However, Haeg must inform this Court not only of his reasons for seeking a stay, but also of the trial court's reasons for denying the requested stay.

Entered at the direction of the Court.

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November 16, 2006

Clerk of the Appellate Courts


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