

STATE OF MINNESOTA
IN COURT OF APPEALS

OFFICE OF
APPELLATE COURTS

APR 14 1994

Mary Jane Duchene, Natural
Guardian, Heir and Sole Issue of
Jane D. Duchene, Deceased.

FILED
ORDER

C2-94-575

BASED UPON THE FILE, RECORD AND PROCEEDINGS, AND
BECAUSE:

1. Petitioner, pro se, seeks a writ of prohibition to restrain enforcement of the district court's March 15, 1994 ex parte order dismissing a petition for writ of mandamus to compel the Dakota County Attorney and the Dakota County Medical Examiner to take certain actions regarding their investigation into the death of petitioner's mother.

2. It appears that the primary relief petitioner sought in the district court action was to compel the medical examiner to release certain information. On March 28, 1994, the medical examiner filed a copy of his March 24, 1994 letter to petitioner, enclosing a copy of the examiner's complete investigative report. On March 30, 1994, the Dakota County Attorney filed a copy of his March 6, 1992 letter to petitioner, indicating that the county's investigation of petitioner's mother's death was completed in 1987, and that the county's file on this matter is open for inspection.

3. Because the records petitioner seeks are available to petitioner, it appears that the mandamus proceeding in the district court and this petition for prohibition are moot. See In re Inspection of Minn. Auto Specialties, Inc., 346 N.W.2d 657, 658 (Minn. 1984) (if an event occurs which makes a decision on the merits unnecessary, the appeal will be dismissed as moot).

4. Petitioner already has raised the same cause of death issue in previous appeals from other district court actions. This court held that the most recent appeal was frivolous, because relitigation of the cause of death issue was barred by collateral estoppel. In re Estate of Jane D. Duchene, No. C7-93-1307 (Minn. App. Mar. 1, 1994). Petitioner is advised that any future attempts to seek relief in this court on matters that already have been finally decided may result in the imposition of sanctions. See Minn. Stat. § 549.21, subd. 2 (1992) (attorney fees and costs may be assessed against a party who asserts a claim that is frivolous).

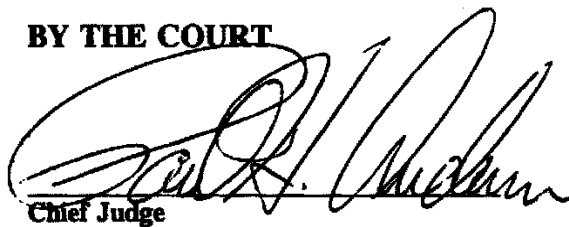
5. Petitioner also seeks an order disqualifying all Dakota County judges from presiding over any further proceedings in this matter. This claim is without merit.

IT IS HEREBY ORDERED:

1. The petition for prohibition is denied in its entirety.
2. The filing fee for the petition is waived.
3. The Clerk of the Appellate Courts shall provide copies of this order to the Honorable Thomas R. Lacy, petitioner pro se, the Dakota County Attorney, the Dakota County Medical Examiner, and the trial court administrator.

Dated: April 1, 1994

BY THE COURT



Chief Judge

AW/dr