

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
THIRD JUDICIAL DISTRICT AT ANCHORAGE

State of Alaska, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
Trueblood, Jr., James )  
 )  
Defendant. )

Case No. 3AN-09-06839CR

Treat as original

ORDER REFERRING SENTENCING TO A THREE JUDGE PANEL

For the reasons placed on the record on January 27, 2010, the Court refers this case to a three judge panel.

**Findings of Fact:** The parties agreed that the presentence report was accurate. The Court adopted pages 1-6 of that report as an accurate description of the crime and the defendant's personal information. The Court noted defendant's youth, lack of criminal history and remorse for the crime were noteworthy.

The Court found the circumstances of the crime reflected extreme negligence on the part of the defendant. Given his experience with firearms, his having personally loaded the weapon and purportedly unloaded it, and his reckless handling of the weapon, the Court found his conduct problematic.

**Conclusions of Law:** Rehabilitation should be the principle Chaney factor considered in sentencing this case given the defendant's age, lack of criminal history, background and remorse. However, reaffirmation of community norms and deterrence of others should also be factors considered. The public would expect individuals who handle firearms recklessly and thereby cause the death of an individual should receive a substantial period of incarceration. Additionally it is important that youth who choose to handle firearms recognize they have a responsibility to do so with care or they face significant confinement.

The Court finds by clear and convincing evidence that manifest injustice would result if the mandatory minimum of seven years was imposed in this case. Given the Court of Appeals decision in Harapat v. State of Alaska, 174 P.3d 249, this case needs to be referred. Harapat noted if the issue was close as to whether manifest injustice would occur by imposing the mandatory minimum sentence, referral was warranted.

In this case the Court believes some adjustment to the presumptive term is appropriate.

Conclusion: Pursuant to AS § 12.55.165 the record is referred to a three judge panel for sentencing under AS § 12.55.175.

1-29-2010  
Date

Jack Smith  
Jack W. Smith  
Superior Court Judge

I certify that on 1.29.10  
a copy of the above was mailed to each of the  
following at their addresses of record: Fischer / DAD

B Walker  
B Walker / Administrative Assistant