

ALASKA SUPERIOR COURT
THREE-JUDGE SENTENCING PANEL
DECISION SUMMARY

Hearing Date: April 18, 2008 in Dillingham

Case No.: 3DI-06-00173 CR

Defendant: Christopher Strub

Charge: One count of Assault in the First Degree (AS 11.41.200(a)(1), a Class A Felony), one count of Assault in the Second Degree (AS 11.41.210(a)(2), a Class B Felony), one count of Assault in the Third Degree (AS 11.41.220(a)(1)(B), a Class C Felony), and one count of Reckless Endangerment (AS 11.41.250(A), a Class A misdemeanor).

Referred by: Judge Patrick McKay

Panel: Judge Stephanie E. Joannides

Judge Michael Thompson

Judge Richard H. Erlich

BACKGROUND

On November 9th, 2007, Defendant Christopher Strub was found guilty of one count of Assault in the First Degree, one count of Assault in the Second Degree, one count of Assault in the Third Degree, and one count of Reckless Endangerment.¹

¹ While under the influence of alcohol, Mr. Strub drove his vehicle into another vehicle, injuring both driver and passenger of the other vehicle. *See* CRIMINAL COMPLAINT for a full description of the facts and circumstances. (attached)

A sentencing hearing was held before Judge McKay on February 7, 2008. Judge McKay found that no statutory aggravators or mitigators applied in this case. In considering the *Chaney* criteria, Judge McKay emphasized the importance of community condemnation and deterrence (both individual and general). Judge McKay found that, under these circumstances, imposition of the lowest available presumptive term of seven years would not be manifestly unjust. However, because Judge McKay found that Mr. Strub had established, by clear and convincing evidence, the presence of the non-statutory mitigating factor of extraordinary potential for rehabilitation, he referred the case to the three-judge sentencing panel.

FINDINGS AND CONCLUSION

The three-judge sentencing panel met in Dillingham on April 18, 2008. After listening to the arguments from counsel for Mr. Strub and the State, hearing from Mr. Strub, and considering all of the information presented, the panel found by clear and convincing evidence that Mr. Strub had extraordinary potential for rehabilitation. (The panel also clarified that it had only reviewed Mr. Strub's case with respect to Count 1, Assault in the First Degree, which has a presumptive sentencing range of seven to eleven years, but added that Counts 1 and 2, Assault in the Second Degree, had merged together.)

The panel supported its finding with the following facts: Mr. Strub was remorseful, he had a strong educational background, he lacked a criminal record, he was a youthful offender, he had a history of employment, and he had strong family

and community support. Although the panel considered, and was concerned over Mr. Strub's post-arrest drinking, and his failure to obtain the alcohol assessment until after sentencing, a majority of the panel found that this was not the determining factor.

The panel then considered the *Chaney* criteria (individual deterrence, public deterrence, the need for isolation, and the reaffirmation of societal norms) in order to determine whether or not to alter the presumptive sentencing term. While the panel unanimously agreed that there should be a reduction in sentence, a majority of the panel agreed on a four year sentence reduction.

The panel therefore sentenced Mr. Strub to a full term of seven years, with three years suspended, and a five-year probationary period pursuant to the conditions recommended in the presentence report. The panel also ordered Mr. Strub to pay restitution to the victims in an amount to be determined by the Court, and ordered the Department of Revenue to deliver Mr. Strub's permanent fund dividend check to the Attorney General for restitution purposes.

The panel remanded the case to the trial court for sentencing pursuant to statute on the remaining charges. A transcript of the hearing before the three-judge sentencing panel, which includes the panel's oral findings, is attached and incorporated by reference. The judgment issued by the panel is also attached, as well as the sentencing transcript.