

Screen for VRA

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
AT SEWARD

STATE OF ALASKA)
) Plaintiff)
vs.)
))
DYLAN J. PRICE,)
) Defendant)
DOB: 10/23/1979)
APSN: 6837786 A/TN 110-398-149)
DL: 6837786 ST.: AK Comm. Lic.)

Filed by the Court Clerk
STATE OF ALASKA THIRD DISTRICT
AT SEWARD

SEP - 4 2009

CASE NO. 3SW-07-00022 CB

Amended 9/20/09
JUDGMENT AND ORDER OF
COMMITMENT/PROBATION

Defendant has been convicted upon Jury Verdict of GUILTY of

CTN	Count	Date of Offense	Offense	Statute Violated	DV Offense Per AS 18.66.990(3)&(5) (Yes or No)
001	1	1/19/2007	Misconduct Involving Controlled Substance Second Degree	AS 11.71.020(a)(3)	No
002	2	1/19/2007	Misconduct Involving Controlled Substance Second Degree- MERGES COUNT 1	AS 11.71.020(a)(4)	No
003	3	1/19/2007	Misconduct Involving Controlled Substance Second Degree- MERGES COUNT 1	AS 11.71.020(a)(4)	No
004	4	1/19/2007	Driving in Violation of Instruction Permit	AS 28.15.051(a)	No
005	5	1/19/2007	Misconduct Involving Controlled Substance Sixth Degree	AS 11.71.060(a)(1)	No

and the following charges were dismissed:

CTN Count Date of Offense Offense

State vs. Dylan J. PriceCase No. 3SW-0722

CR

Defendant came before the court on (sentencing date) June 25, 2008 with counsel, J. Montague, and the District Attorney, J. Scaton, present

IT IS ORDERED that the defendant is hereby committed to the care and custody of the Commissioner of the Department of Corrections for the following period(s): Consolidated Count 1 - SIXTY (60) months with FORTY-SEVEN (47) months suspended CONSECUTIVE TO Count ~~1~~ - SIXTY (60) days. No time was imposed on Count ~~2~~ 5 4

- Under AS 33.16.090(a)(2) and AS 12.55.115, the defendant is not eligible to be considered for discretionary parole until the defendant
- has served the following term:
- has completed the following conditions:

IT IS ORDERED that the defendant is fined Count 5 - \$100.00 with \$0 suspended. The unsuspended \$100.00 is to be paid July 25, 2009.

POLICE TRAINING SURCHARGE. IT IS ORDERED that defendant pay to the court the following surcharge pursuant to AS 12.55.039 within 10 days:

Count	Surcharge Amount
1	\$100.00

- INITIAL JAIL SURCHARGE. Defendant was arrested and taken to a correctional facility or is being sentenced to serve a term of imprisonment. Therefore, IT IS ORDERED that defendant immediately pay a correctional facilities surcharge of \$100 to the Department of Law Collections Unit, 1031 West 4th Avenue, Suite 200, Anchorage, AK 99501. AS 12.55.041(b)(1).

SECOND JAIL SURCHARGE. IT IS ORDERED that the defendant pay a correctional facilities surcharge of \$100 if defendant's probation is revoked and, in connection with the revocation, defendant is arrested and taken to a correctional facility or jail time is ordered served. AS 12.55.041(c).

DNA IDENTIFICATION. If this conviction is for a "crime against a person" as defined in AS 44.41.035, or a felony under AS 11 or AS 28.35, the defendant is ordered to provide samples for the DNA Registration System when requested to do so by a health care professional acting on behalf of the state and to provide oral samples for the DNA Registration System when requested by a correctional, probation, parole or peace officer. AS 12.55.015(h).

IT IS FURTHER ORDERED that all seized chemicals, drugs and other offense related paraphernalia are forfeited to the state.

IT IS FURTHER RECOMMENDED that

IT IS ORDERED that, after serving any term of incarceration imposed, the defendant is placed on probation for FIVE (5) months years under the following conditions:

GENERAL CONDITIONS OF PROBATION

1. Comply with all direct court orders listed above by the deadlines stated.
2. Report to the Department of Corrections Probation Office on the next business day following the date of sentencing, or, if time is to be served prior to probation, report to

State vs. Dylan J. PriceCase No. 3SW-07-22

CR

the Department of Corrections Probation Office on the next business day following release from an institution.

3. Secure the prior written permission of a probation officer of the Department of Corrections before changing employment or residence or leaving the region of residence to which assigned.
4. Make a reasonable effort to secure and maintain steady employment. Should you become unemployed, notify a probation officer of the Department of Corrections as soon as possible.
5. Report in person between the first day and the tenth day of each month, or as otherwise directed, to your assigned office of the Department of Corrections. Complete in full a written report when your probation officer is out of the office to insure credit for that visit. You may not report by mail unless you secure prior permission to do so from your probation officer.
6. At no time have under your control a concealed weapon, a firearm, or a switchblade or gravity knife.
7. Do not knowingly associate with a person who is on probation or parole or a person who has a record of a felony conviction unless prior written permission to do so has been granted by a probation officer of the Department of Corrections.
8. Make a reasonable effort to support your legal dependents.
9. Do not consume intoxicating liquor to excess.
10. Comply with all municipal, state and federal laws.
11. Report all purchases, sales and trades of motor vehicles belonging to you, together with current motor vehicle license numbers for those vehicles, to your probation officer.
12. If this conviction is for a sex offense as defined in AS 12.63.100, submit to periodic polygraph examinations as directed by a probation officer of the Department of Corrections. AS 12.55.100(e).
13. Abide by any special instructions given by the court or any of its duly authorized officers, including probation officers of the Department of Corrections.

SPECIAL CONDITIONS OF PROBATION

- Submit immediately to a urinalysis and/or blood analysis by a medical doctor or medical laboratory to determine the use of narcotics or other controlled substance when directed to do so by a probation officer of the Department of Corrections.
- Provide blood and oral samples for the DNA Registration System when requested to do so by a health care professional acting on behalf of the state and provide oral samples for the DNA Registration System when requested by a correctional, probation, parole or peace officer. AS 12.55.100(d) and AS 44.41.035.
- Upon the request of a probation officer, submit to a search of your person, personal property, residence or any vehicle in which you may be found for the presence of controlled substances and/or drug paraphernalia.

State vs. Dylan J. PriceCase No. 3SW-07-22CRSPECIAL CONDITIONS OF PROBATION - CONTINUED

- Do not use, possess, consume, ingest or have in any of her bodily fluids any illegal controlled substances, including marijuana. Defendant shall notify the probation officer within 48 hours of all medication prescriptions and sign a release of information allowing the probation officer to verify the prescription.
- The defendant shall complete a Department of Corrections approved substance abuse evaluation within 30 days of the first report. If a recent substance abuse evaluation was completed while the defendant was incarcerated, the probation officer may accept it for the evaluation intended by this section. The Department of Corrections may release information from its records to the evaluator for purposes of the evaluation.
- The defendant shall actively participate in and complete all substance abuse programs and treatment as recommended by the evaluator, including residential treatment up to thirty (30) days, if deemed appropriate, to be followed by a continuing care / aftercare component. The defendant shall pay all costs of treatment. The defendant shall sign a release of information allowing the Department of Corrections to monitor attendance, participation, and progress in treatment. Any additional time spent in residential treatment shall be credited against any future term of incarceration.
- Do not possess any or control any decongestant or other medicine containing Ephedrine or Pseudoephedrine, unless by doctor prescription.

Any appearance or performance bond in this case:

- is exonerated.
- is exonerated when defendant reports as ordered to jail to serve the sentence.
- was forfeited and any forfeited funds shall be applied to the restitution.
- _____

June 25 2009
Effective Date

Stephanie Ioannides
Judge.

Stephanie Ioannides
Type Judge's Name

In the Superior Court for the State of Alaska at Seward

Media No.: 3SW09-44

Judge: S. Joannides
E. Smith
R. Erlich

Date: Thursday June 25, 2009

Clerk: Bublitz

Plaintiff: State of Alaska vs.

Defendant's Name:
JANINNE SANDROCK
DYLAN PRICE

Case No:
3SW-07-21CR
3SW-07-22CR

DOB:
8/20/1985
10/23/1979

Address:

Type of Proceedings: 3-Judge Sentencing Panel

Counsel Present: Plaintiff: DA-Seaton

Defendant: C. Brenckle (Sandrock); J. Montague (Price)

Defendants: Present, in-custody

Bail Set/Continues:		
Transport Order:	To issue today	
Other Court Orders:		
Next Court Date(s) and Time(s):	Type of Hearing(s):	Location:

Summary of Proceedings:

11:06:07 AM

On record

COURT: identification of case and parties present

District Attorney - with me is Steven Meyer, Probation Officer, State does not intend to call witnesses

Brenckle - I will call witnesses

Montague - I will call witnesses

COURT: regarding matter of Public Defender Montague's filing which went astray

Montague - I withdraw any challenge

COURT: proceed to call witnesses

Brenckle - clarifies procedure

Brenckle - call first witness

Margaret Jean Peckham sworn

Brenckle - direct examination

- known Jannine and Dylan about 2 years
- Roxanne (Dylan's mother) is caring for Gabriel
- Dylan and Janinne are conscious of their impact on the environment, close to subsistence
- Janinne is great with her son, he is very outgoing and bright
- always doing artwork, she tried to figure out how to use everything creatively

11:16:38 AM [Brenckle moves to witness stand, offers exhibit to witness]
[Brenckle moves back to defendant table]

- my husband and I don't hold with drugs, we don't care for it
- Janinne has made contributions to society, she brings sense of humor and way of looking
- we moved all animals in together, 17 geese, 5 ducks & babies, chickens, sheep, rabbits

11:21:38 AM **Montague cross-examination**

- lived in Alaska 18 years, with my husband, son and daughter
- met Janinne while she and my daughter were both pregnant at the same time
- Gabriel is 18 months now, he plays with my granddaughter close in age
- they are marvelous parents to Gabe, well taken care of, if anything over cautious
- Dylan has worked consistently

11:27:01 AM **District Attorney - cross examination**

- daughter is Danielle Lynn Seivers, Dano Bailey is her boy friend
- known them in mid-2007, I was aware of marijuana use, only saw Mr. Price

11:32:21 AM **District Attorney - no further questions**

COURT: witness excused

11:32:41 AM Montague get witness

11:33:21 AM **Brenckle - introduce Exhibit A & B**

District Attorney - no objection

COURT: Defendant Sandrock Exhibits A & B admitted

11:34:19 AM **Roxanne Marie Dearinger sworn**

Montague direct examination

- Dylan is my son
- we were in contact all the time
- when they lived in Seward they would visit me in Chugiak
- I am aware Dylan smokes marijuana, but never meth
- I have been taking Gabe to visit Janinne, he missed his mom and dad and looked for them

Brenckle - cross examination

[Brenckle offers witness Defendant's trial exhibit J]
[Judges view exhibit J]

[Brenckle offers witness Defendant's trial exhibits I, AA, & BB]

[Judges view exhibits]

11:49:52 AM **Judge Erlich: questions term "cabin/tent"**

-Janinne has had 7 surgeries on her tooth
-she was told to take Sudafed, but not while she was pregnant
-she could have experimental surgery option
-Janinne is very artistic

11:53:23 AM [Brenckle offers witness Defendant's trial exhibit G]

-Janinne takes poetry and puts it on pictures, use Muriatic acid to etch rock

[Brenckle offers witness State's trial exhibit 3]

[Brenckle offers witness Defendant's trial exhibit ___ - walking stick

-Janinne was using Sudafed
-Gabe is 20 months, he is walking, running, talking, he calls us Nana and Papa

Brenckle - no further questions

11:57:35 AM **District Attorney- cross examination**

-Dylan got his GED at job corps
-he's worked for contractor business, he was laborer

12:00:12 PM **[Noon whistle]**

-I think they met in Las Vegas, he was living there, he also lived in Louisiana
-he was with her at the time of the Louisiana conviction, Janinne is from there
-I don't know what it was about, he didn't include me
-I think after he got back to Alaska he was soon off probation from Louisiana
-I didn't approve of marijuana in my house
-her doctor told her to take Sudafed, but stop when she was pregnant

12:04:34 PM **Montague - objection, hearsay**

12:04:54 PM **COURT: overruled**

12:05:09 PM **District Attorney** - for the record it was the defense who introduced all the medical records at trial over the State's objection

12:05:47 PM **Brenckle** - objection, mischaracterization

COURT: will review the record of trial testimony is we feel it is relevant
-clarify if there is any dispute over reference to decongestant?

District Attorney - would have to review record

12:08:36 PM **District Attorney** - no further questions

12:08:44 PM **Montague - re-direct examination**

12:09:41 PM **Judge Erlich - queries witness regarding etching on concrete**

12:10:18 PM **COURT: witness is excused**

Montague calls witness

12:10:30 PM **Terry Kerr Miller sworn**

Montague - direct examination

- superintendent of concrete work, put in bids, layout job, supervise putting in
- 39 years in concrete, 17 years in Union
- worked in Dutch Harbor
- Dylan helped me on Credit Union One, Residential Mortgage, Great Alaska Holiday, I am not an easy person to work for
- he's not the biggest pole in the barn, but he was able to hold up
- I am in 17-year relationship with Dylan's mom
- the only thing good about this is getting to know my grandson

12:15:40 PM **District Attorney - cross examination**

- no tolerance for marijuana on work crew, made them test 2 weeks ago
- they don't tell me

12:16:45 PM **Montague - re-direct examination**

12:17:04 PM **COURT: witness excused**

12:17:13 PM **Montague calls witness**

12:17:24 PM **Steven Allan Meyer sworn**

Montague direct examination

Judge Joannides - queries witness

- when I went into supervision I saw some of the same people I saw in the field

12:21:00 PM **Judge Erlich - what is probation office location?**

- I authored the presentence report, try to provide evaluation of case for all parties and Court
- a lot of things in this case were unusual, the amount of time out on bail was long, meth users simply cannot last that long without getting back in trouble

Judge Smith - was it a third party release?

- "tweaking" means nervous, antsy, jumping around, bad skin, missing teeth, gaunt
- I met with Mr. Price in person
- job is to look at things objectively, there may have been intent, these folks have gotten wake-up call, time on bail clearly shows they can abide by law
- they have high chance of success with supervision
- not typical, does not seem to warrant a long term in jail, one of the worst things we can do

12:28:46 PM

Brenckle cross-examination

- no information received from other probationers about this couple, no one knew them
- that was also very unusual to me
- interviewed Ms. Sandroek over the phone
- she believed her and Dylan's appearance brought them before the Court
- "earth mothers" "flower child of the 60's"

12:32:36 PM

Judge Joannides - will allow Ms. Brenckle to continue

12:33:50 PM

District Attorney cross examination

12:34:16 PM

Judge Joannides - was it a suspended imposition of sentence or a pardon?

- possession with intent to distribute marijuana in Louisiana, transferred probation to Alaska, no violations with Anchorage probation
- expired Oct 2005
- pardon was granted in Louisiana, sort of no actual conviction
- did not realize using marijuana would violate conditions of release, they admitted to me
- Mr. Price was fairly angry about the whole thing, he felt he was unfairly convicted
- same as Ms. Sandroek

12:38:33 PM

Judge Joannides - any evidence of meth during searches other than what was found in car?

Judge Smith - did they find any precursors in the wall tent?

Montague - nothing was seized when search warrant was executed

12:40:05 PM

- meth is sold by the gram, little baggies
- \$135/gram within the last month

12:41:37 PM

Montague - objection

COURT: allow question

Judge Smith: for purpose of Court fines, estimate marijuana \$2000/pound, approximate wholesale value, may be up to \$3000

Judge Erlich: in villages, bottle of R&R goes for \$150

Judge Erlich: queries witness

12:48:26 PM **Judge Smith: queries witness**

12:48:42 PM **Judge Joannides: queries witness**

12:50:32 PM **Montague - re-direct examination**

12:50:55 PM **Judge Joannides: queries witness**

12:52:08 PM **Judge Erlich: queries witness**

12:53:04 PM **Judge Joannides: is the pardon a forgiveness?**

COURT: witness is excused

Judge Joannides: procedure today, breaks, statement, or argument?

12:55:52 PM **Judge Joannides: Reconvene at 2:00 p.m.**

12:56:06 PM **Court in Recess, off record**

2:00:33 PM **Resume session, on record**

2:01:11 PM **District Attorney - argument**
-Judge Huguelet did find mitigators

2:02:15 PM **Judge Joannides - State did agree to both defendants being sentenced to 2-1/2 years**

2:02:45 PM -also Dylan Price was convicted of two misdemeanor counts also
-jury in this court room found them guilty

2:04:18 PM **Judge Erlich- do you have any position of whether counts merge or not? How many?**

-I would agree under normal circumstances those 3 counts would merge
-State does not contest that they are good parents, held jobs

2:05:56 PM **Judge Smith - can't we just find manifest injustice?**

2:08:40 PM **Judge Joannides - what weight would you suggest we give to the fact that defendants gave permission to search vehicle?**

2:09:56 PM **Judge Erlich - questions**

2:13:10 PM **Judge Erlich - probation officer testified this was not a typical meth case**

Judge Erlich - my frame of reference is bootleg alcohol, there's no quantity limitation in this statute?

2:16:48 PM **Judge Smith - if we send this to Judge Huguelet he could sentence from 2-1/2 to 8 years. Under the Harapet case, do we have to look at the 5 years? First prong talks about sentence as adjusted, the second prong does not.**

-Louisiana does not count as prior conviction but Court does need to consider

-he ignored Court's instructions not to use controlled or illegal substances

2:23:44 PM **Judge Joannides - the information he continued to use post-arrest comes from where?**

-Chaney criteria as far as rehabilitation, as far as community condemnation
-ask you to find sentence is not manifestly unjust, not exceptional factors for rehabilitation. Ask return to Judge Huguelet for sentence of 2-1/2 to 5

2:28:51 PM **Judge Smith - we can say we're not going to change it, or we can impose sentence ourselves.**

2:29:15 PM **Judge Joannides - Ms Brenckle did have medical records admitted, which are they?**

Brenckle - results of CT scan.

Judge Joannides - do you have those with you so we can see if what we have

2:30:34 PM Brenckle - provides records to Court

2:30:57 PM Brenckle - can I withdraw these exhibits?

Judge Joannides - yes

2:31:14 PM **Judge Erlich - decongestant testimony, there was an objection. Was there evidence in the medical records that she should use a decongestant without giving propriety name?**

Brenckle - argument

2:35:21 PM **Judge Erlich - the question is, how do we deal with that issue?**

-search did not reveal any controlled substances

2:37:50 PM **Judge Erlich - You're saying, Judge, the fact that my client said she had the Sudafed demonstrates her intent not to manufacture. State's argument is that the jury controls.**

2:39:04 PM **Judge Smith - we are not appellate panel**

-in position today to have to respect the jury's verdict
-Sandrock admitted she had Sudafed, she informed officer, tie into legislative concern for legitimate reasons
-Judge Huguelet felt 2-1/2 years for Sandrock was manifestly unjust. He made recommendation to this Court for probation, minimal shock jail.

2:42:22 PM **Judge Erlich - one of the things we have to find is what caused this conduct.**

-her other alternative she explained at trial was experiment surgery in Seattle.
-she introduced a business license so she could sell her artwork at the State Fair.
-manifest injustice must shock the conscience, be plainly unfair
-no evidence of any controlled substance
-urge Court to accept jurisdiction and sentence Ms. Sandrock

2:48:46 PM **Judge Smith - in evaluating this do we accept jurisdiction on a 5 or a 2-1/2 year sentence?**

We are supposed to find the circumstances and the likelihood it would reoccur.

2:52:25 PM **Judge Joannides - take a break. Advises defendants of right to make statement to Court.**

2:53:28 PM **Court in recess, Off record**

3:08:55 PM **Court resumes, On record**

3:09:08 PM **Montague - Argument**

Judge Smith - first and second prong

-AS12.55.175(e), even if you make Finding

Judge Smith - if you leave the manifest injustice out, mitigators

-merger of counts, State's concession is well founded

-as far as the 2 prongs that exist, Court is not tethered to rehabilitation mitigator

-federal situations that has been used is extraordinary effect on innocent family member

3:13:09 PM **Judge Joannides - sentenced a lot of parents to jail, jails are full of good people who made poor choices, is that really sufficient?**

3:14:56 PM **Judge Joannides - do we sentence people in a different way if they do have young children or they don't?**

3:15:39 PM **Judge Smith - sentenced parents on A felonies, but that's different.**

-Court can find non-statutory mitigator that does not involve rehabilitation.

-rehabilitation prospects for Mr. Price, based on testimony of P O Meyers, almost like probation.

3:19:06 PM **Judge Erlich - what precipitated this behavior?**

3:20:30 PM **Judge Smith - prior Suspended imposition of sentence is a factor, not a disqualifier**

-strong family ties and work ethic, good relationship with Ms. Sandrock and child

3:22:18 PM **Judge Smith - what do you suggest sentence ought to be?**

-time served (10 months) plus probation

3:23:46 PM **Judge Smith - we have to find it anyway, we can't go below 2-1/2 years without manifest injustice.**

-presumptively sentencing has its advantages and disadvantages.

-facts allow this Court to make this Finding.

3:28:38 PM **Judge Joannides - did client serve incarceration in the Louisiana case?**

-if you simply had acetone or iodine it would be enough to be charged.

-stronger prong is atypical facts of this conviction.

3:33:13 PM Judge Joannides - inquires of defendants

3:33:37 PM Dylan Price - Statement

3:34:28 PM Janinne Sandrock - Statement

3:36:10 PM Judge Joannides - the next step is that the panel will retire and announce decision about 4:30 p.m. We must make sure we are very thorough.

3:37:43 PM Recess, Off record

4:46:51 PM Resume, On record

4:47:05 PM Judge Erlich:
identification's case files and defendants
All 3 counts are merged into Count 1
Mr. Price also convicted Drive in Viol Instructional Permit and MICS VI
Judge Huguelet found 2 mitigators
Find 2 mitigators by clear and convincing evidence
Find this is an atypical offense not contemplated by the statute
Find manifest injustice, below the adjusted 2-1/2 year
we are honoring the juror's verdict

Sandrock:
Findings
Suspended imposition of sentence for 3 years with 2 years suspended
3 years probation
general and special conditions of Probation Officer
one additional special condition: any decongestant containing ephedrine or pseudoephedrine requires a prescription

Price:
60 months with 47 susp, 13 months to serve
5 yrs probation
consecutive MICS VI - 60 days
Driving \$100 fine
Special condition of probation: any decongestant containing ephedrine or pseudoephedrine requires prescription

Both:
\$100 SC
200/100 CFSC
\$2500 Public Defender fee each

4:52:34 PM Judge Smith - sentencing comments

4:54:05 PM Judge Joannides - sentencing comments

4:58:47 PM Judge Smith - sentencing comments

Judge Erlich: order forfeiture of the items seized as subject of charge, not art work submitted as exhibits, everything in picture and Sudafed

5:01:05 PM

Judge Joannides

[clerk leaves to get fingerprint cards]

5:05:20 PM

Judge Joannides - fingerprinting complete

5:05:40 PM

Off record