

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
FOURTH JUDICIAL DISTRICT AT FAIRBANKS

STATE OF ALASKA,)
)
) Plaintiff,)
) v.)
))
 KEVIN L. GARNER,)
))
) Defendant.)
 _____)

Case No. 4FA-07-409CR

REFERAL TO THREE JUDGE PANEL

At sentencing on February 15, 2008, the court found that Kevin Garner:

1. Is relatively young and does not have a significant criminal history;
2. Has acknowledged his responsibility for his conduct;
3. Was remorseful upon discovery of his victim and continues to be;
4. Has exceptional support from family, employer, former employers, coworkers, teachers, friends, parents of friends, and even an inmate he has tutored in the prison setting;
5. Has acknowledged his need for alcohol treatment, and has begun addressing the problem, even while in custody;
6. Has a college degree and a demonstrated capacity for applying his education;

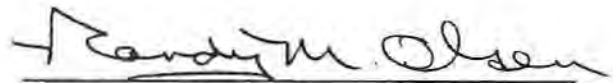
- 7. Has an excellent work history and reputation;
- 8. Has made beneficial use of his time while in custody, both completing educational programs and assisting other inmates;
- 9. Had a history of charitable work and service prior to his current legal problems.

The court concluded that Mr. Garner possesses an outstanding rehabilitation potential.

The court concluded that the presumptive sentencing range would not result in manifest injustice. However, the court concluded that Mr. Garner had established by clear and convincing evidence that manifest injustice would result from failure to consider Mr. Garner's potential for rehabilitation when imposing sentence, which is not a factor included in AS 12.55.155. It further appears from AS 12.55.165(b) that the legislature specifically intended that a convicted felon with an unusually enhanced rehabilitation potential should be considered for referral to the three judge sentencing panel. Accordingly,

Sentencing proceedings are referred to the AS 12.55.175 Three Judge Panel.

DATED at Fairbanks, Alaska, this 22nd day of February, 2008.


 RANDY M. OLSEN
 Superior Court Judge

Referral to Three Judge Panel
 SOA v Kevin L. Garner

I certify that on 2-28-08 John J. Oamidis
 copies of this form were sent to: DA
PD
D * C
 CLERK: _____