

ALASKA SUPERIOR COURT
THREE-JUDGE SENTENCING PANEL
DECISION SUMMARY

Hearing Date: May 28, 2010 in Anchorage

Case No.: 3AN-09-06839 CR

Defendant: James Trueblood III

Charge(s): Count I – Murder 2-Extreme Indifference, AS 11.41.110(a)(2)

Count II – Manslaughter-Death Not Murder 1 or 2, AS 11.41.120(a)(1).

Referred by: Judge Jack W. Smith

Panel: Judge Stephanie Joannides

Judge Randy Olsen

Judge Trevor Stephens

BACKGROUND

Teenager James Trueblood III accidentally¹ shot and killed his best friend Brenton Buckmaster with Trueblood's new pistol.²

Earlier that day after Trueblood finished his school day, Trueblood's father drove him to Gun Traders in Muldoon. Trueblood traded an old pistol plus some

¹ The State maintained that the shooting was not an "accident," since "[a]n accident is something with no apparent or deliberate cause. Mr. Trueblood caused the death of his friend." Three Judge Sentencing Panel, Transcript Of Proceedings, Volume II, May 28, 2010 at 43 (attached).

² For a complete description of the facts and circumstances of the case, see Presentence Report, Dec 22, 2009, at 1-9 (attached).

money for the one involved in the shooting. When Trueblood and his father returned home, Buckmaster and another boy named Adam Moore were “hanging out” in the living room. This was not uncommon. Trueblood showed the boys his pistol. Trueblood’s father went to his room and watched television. Buckmaster and Moore then played video games on Trueblood’s couch, and Trueblood went to his father’s room where ammunition was kept. Trueblood loaded and unloaded his gun several times. His father saw and allowed this.

Trueblood then returned to the living room. Trueblood repeatedly cocked and un-cocked his pistol while leaning over the back of the couch where Buckmaster lay. The pistol was only inches from Buckmaster’s back when a single bullet was discharged into Buckmaster’s left side. The bullet exited Buckmaster’s right side after injuring his lungs and heart. Buckmaster was transported to Alaska Native Medical Center where he was pronounced dead. Trueblood told police that he thought his pistol was unloaded.

Trueblood pled guilty to Manslaughter.³ The presumptive term for this offense is seven to eleven years.⁴ At sentencing, Judge Smith found that a sentence of the lowest presumptive term in this case (7 years) would be manifestly unjust. As such, he referred the case to the Panel.

³ AS 11.41.120(a)(1); The State initially charged Trueblood with 2nd Degree Murder and Manslaughter. The State dropped the 2nd Degree Murder charge as a part of a plea deal with Trueblood.

⁴ AS 12.55.125(c)(2)(A).

In support of his referral, Judge Smith made the following findings and conclusions:⁵

(1) Trueblood's youth, lack of criminal history and remorse for the crime were noteworthy;

(2) Although rehabilitation should be the primary factor considered in sentencing Trueblood, reaffirmation of community norms and deterrence of others should also be considered;

(3) The public would expect a substantial period of incarceration for individuals who cause the death of another through reckless handling of a firearm; and

(4) It is important that youths choosing to handle firearms recognize that they face significant confinement if they do not handle them responsibly.

FINDINGS AND CONCLUSION

The Three-Judge Sentencing Panel met in Anchorage on May 28, 2010. The Panel heard arguments from counsel for Trueblood and the State of Alaska. The Panel also heard testimony from Detective Mark Huelskoetter, Dave and Dianna Kukowski,⁶ Joel Rardin,⁷ Wayne Young⁸ and Sophie Brodigan.⁹

⁵ Order Referring Sentencing To A Three Judge Panel, Jan 29, 2010 at 1-2.

⁶ Mr. Trueblood's grandparents.

⁷ Mr. Trueblood's former physical education teacher.

⁸ A teacher at the Spring Creek Facility in Seward, Alaska.

⁹ The first cousin of decedent Brenton Buckmaster's mother.

Trueblood sought the imposition of a one-year sentence, claiming manifest injustice.¹⁰ The State argued that the relevant Alaska statutes¹¹ did not authorize the Panel to impose a one-year sentence because a one-year sentence is less than half of the lowest end of the presumptive term.¹²

The Panel found by clear and convincing evidence that manifest injustice would result from both a failure to consider Trueblood's extraordinary potential for rehabilitation and the imposition of a sentence within the presumptive range.

In fashioning its sentence, the Panel considered three similar Panel cases¹³ previously before it. Each of the cases involved a young defendant "playing" with firearms. The Panel sentenced all three defendants to five years in jail. The Panel noted that unlike Trueblood, the defendants were either drinking alcohol, using marijuana, or had previously been reckless with firearms. Since none of those factors were present in this case, the Panel sentenced Trueblood to seven years with three and a half suspended, five years probation. The Panel held that they did not have to reach the defense's request for a one year sentence.¹⁴

The Panel made the following findings with respect to the *Chaney*¹⁵ criteria:

¹⁰ The defense stated that the *Chaney* and *Dancer* cases allowed the Panel to impose this sentence. *State v. Chaney*, 477 P.2d 441 (Alaska 1970); *Dancer v. State*, 715 P.2d 1174 (Alaska Ct. App. 1986).

¹¹ AS 12.55.125 (Sentences of imprisonment for felonies); AS 12.55.155 (Three-judge sentencing panel); AS 12.55.175 (Factors in aggravation and mitigation).

¹² See AS 12.55.155(a)(2).

¹³ *State v. Harapat*, 3PA-03-01098 CR; *State v. Bombard*, 3AN-06-02953; third case unknown.

¹⁴ Transcript of Three Judge Sentencing Panel Hearing at 61.

¹⁵ See *supra* n. 10.

(1) Trueblood is a good candidate for rehabilitation and he does not need to be isolated to accomplish that goal;

(2) Trueblood has no prior criminal record;

(3) Trueblood was a good student;

(4) Trueblood does not need to be confined to prevent further harm to the public because the sentence and events in question will sufficiently deter him;

(5) Imposing a sentence on Trueblood will deter another 16-year-old from playing with a gun in a home, deter parents from not supervising their children, and deter parents from allowing their children to play with firearms while the children are using controlled substances; and

(6) Trueblood's offense was less serious than those in prior cases where the Panel imposed five-year sentences because: a) no alcohol or controlled substances were involved in this case; and b) Trueblood had not previously pointed a gun at anyone or behaved negligently with weapons.

In order for Trueblood to be eligible for discretionary parole during the second half of his sentence,¹⁶ the Panel ordered:

(1) Trueblood to engage in appropriate programs if available and to continue his educational pursuit to obtain his high school diploma or GED; and

(2) Trueblood to participate in grief counseling and/or any mental health counseling if it is available.

¹⁶ AS 12.55.175(e)(3); AS 33.16.090 (Eligibility for discretionary parole and minimum terms).

In addition, the Panel adopted all applicable general conditions in the presentence report except condition number twelve, since Trueblood was not convicted of a sex offense. The Panel also adopted all special conditions in the presentence report except condition number six, which ordered Trueblood to pay restitution. However, the State's request to leave restitution open for ninety days was granted.

Trueblood's .357 pistol was ordered seized and destroyed. Lastly, the Panel ordered that Trueblood pay the mandatory surcharges.

After sentencing, the State noted its objection to the Panel's finding that Trueblood had extraordinary potential for rehabilitation. The State claimed that this was a non-statutory mitigator not found by Judge Smith.

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 Presentence Report and Judge Smith's referral to the Three-Judge Sentencing Panel are also attached.