

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

STATE OF ALASKA, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 TYRONE B. GAMECHUK, )  
 )  
 Defendant. ) Case No. 3DI-10-611 CR

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**Findings, Conclusions and Order for Referral to Three-Judge Panel**

This matter came on for sentencing, and upon review of the presentence report, the victim's allocution, the witnesses, and family and community letters, I make the following findings of fact and conclusions of law:

1. The defendant Tyrone Gamechuk was convicted of attempted sexual assault in the first degree, and is subject to a presumptive sentence of 15 years—18 years, with 3 suspended—pursuant to AS 12.55.125(i)(2)(A)(ii) and (o).
2. No aggravators or mitigators were established. Findings were made on the record that the defendant had not established that the crime was among the least serious in its class.<sup>1</sup> The victim was a close friend and relative of the defendant, is now estranged from his family and has moved from the village. While situational, the defendant removed clothing from both himself and VS, and the attempted assault was somewhat protracted, involved the use of force,

<sup>1</sup> AS 12.55.155(d)(9). See 3DIA, 12/11/12 at 10:37 *et seq.*  
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and persisted despite repeated requests to stop. The victim was at one point in fear of her life, and had bruises afterwards. The defendant was under the influence of alcohol at the time of the event, and chose to remain silent at today's hearing. There is no indication that he has committed this type of crime in the past.

3. This is Mr. Gamechuk's first felony conviction. The Presentence Report located convictions in 2006 for assault in the 4<sup>th</sup> degree and providing false information, 2007 for criminal mischief, and 2009 for disorderly conduct. He appears to have had problems with alcohol for at least 5 years. He was 25 at the time the crime was committed.
4. Mr. Gamechuk's father died when he was about 17. He was raised in Manokotak and has significant family and community support. He was described as a good provider, very helpful to his family and village elders, generous and unselfish. A cousin said that he had an unusual tolerance for being bullied; that he was humble. He was widely praised for helping on search and rescue operations and participating in community improvement activities. A local teacher and VPSO were among those writing letters in his behalf.
5. The defendant came close to graduating from high school but didn't. He was on release conditions for some seven months prior to trial with no reported violations. One village resident reported that he did not drink during this period and made an effort to change his lifestyle.

6. Based on this record (3DIA, 12/11/12, at 10:15-52, and attachments to PSR), I find by clear and convincing evidence that Mr. Gamechuk has an extraordinary potential for rehabilitation, and that manifest injustice would result from imposition of a sentence within the presumptive range. In making these conclusions, I also relied upon *Collins v. State*, 287 P.3d 791 (Alaska App. 2012). Accordingly, **It is ordered that, pursuant to AS 12.55.165-175, this matter is referred to the three-judge sentencing panel.**

Dated: 12/11/12

Fred T.  
Fred Torrisi, Judge



faxed DA, Henderson  
12/11/12  
FTW