

NOTICE

Memorandum decisions of this Court do not create legal precedent. See Alaska Appellate Rule 214(d) and Paragraph 7 of the Guidelines for Publication of Court of Appeals Decisions (Court of Appeals Order No. 3). Accordingly, this memorandum decision may not be cited as binding authority for any proposition of law.

IN THE COURT OF APPEALS OF THE STATE OF ALASKA

JASON EARL SELVESTER,

Appellant,

v.

STATE OF ALASKA,

Appellee.

Court of Appeals No. A-12025
Trial Court No. 3AN-11-13426 CR

MEMORANDUM OPINION

No. 6497 — July 26, 2017

Appeal from the Superior Court, Third Judicial District,
Anchorage, Jack Smith, Judge.

Appearances: Matthew Tallerico, Gazewood & Weiner, P.C.,
Fairbanks, for the Appellant. June Stein, Assistant Attorney
General, Office of Criminal Appeals, Anchorage, and Jahna
Lindemuth, Attorney General, Juneau, for the Appellee.

Before: Mannheimer, Chief Judge, and Allard and Wollenberg,
Judges.

Judge MANNHEIMER.

Jason Earl Selvester appeals his convictions on three counts of first-degree sexual assault.¹ He raises one claim on appeal.

¹ AS 11.41.410(a)(1).

Selvester was charged with sexually assaulting a homeless woman, D.L., after he invited her to share a hotel room for the night. According to D.L.'s testimony, after the two of them entered the room, Selvester pushed her onto the bed and sexually assaulted her. Later, when D.L. asked Selvester for permission to get up and use the bathroom, Selvester followed her into the bathroom and assaulted her again. Then, after D.L. finished using the bathroom and returned to the bed, Selvester assaulted her a third time.

Following this third sexual assault, Selvester got off of D.L. and lay down on the other bed in the room. D.L. ran from the room, naked from the waist down, and sought help in the hotel lobby.

When the police interviewed Selvester, he denied knowing D.L., and he claimed not to recognize her photograph. However, DNA testing revealed that Selvester's sperm were present in D.L.'s vagina following the attack.

Prior to trial, Selvester's attorney asked the superior court to order the State to disclose all discovery materials relating to other cases in which D.L. was the alleged victim of a crime. Selvester's attorney also asked the superior court to order disclosure of information pertaining to a group of other cases, although his motion did not clearly identify the nature of these cases. (Based on the contents of the State's opposition and of the trial court's later order, it appears that these other cases involved either allegations of physical assault upon D.L. or allegations of sexual assault involving the witnesses in Selvester's case.)

The superior court granted the defense motion in part: the court ordered the police department to produce its reports relating to a 2005 case in which D.L. claimed to have been sexually assaulted. Following an *in camera* review of these documents, the superior court disclosed a portion of the reports to the defense. But the superior court denied the remainder of the defense attorney's request because the court concluded that

the defense attorney had failed to explain why the requested documents might be expected to contain information relevant to the charges against Selvester.

On appeal, Selvester argues that his trial attorney did, in fact, present sufficient reason to believe that the requested materials should be disclosed, or at least that they should be judicially reviewed for potential disclosure. But we have examined the defense attorney's offer of proof, and we agree with the superior court that the defense attorney failed to offer sufficient reason to believe that the requested materials would contain information relevant to Selvester's case.

Accordingly, we uphold the judge's ruling, and we AFFIRM the superior court's judgement.