

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

ROCKY DEAN STIERS,

Appellant,

v.

STATE OF ALASKA,

Appellee.

Court of Appeals No. A-12472  
Trial Court No. 3KN-13-1088 CR

MEMORANDUM OPINION

No. 6541 — November 8, 2017

Appeal from the Superior Court, Third Judicial District, Kenai,  
Carl Bauman, Judge.

Appearances: Rocky Dean Stiers, *in propria persona*, Juneau,  
Appellant. Elizabeth T. Burke, 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 WOLLENBERG.

Rocky Dean Stiers pleaded guilty to attempted second-degree misconduct involving a controlled substance and first-degree promoting contraband after attempting to introduce a controlled substance into a correctional facility. Stiers subsequently moved to vacate his sentence. Stiers argued that his sentence violated Alaska's double jeopardy clause because the Department of Corrections had already imposed 14 days in

punitive segregation based on the same conduct. The superior court denied Stiers’s motion, and Stiers now appeals.

Article I, Section 9 of the Alaska Constitution provides that “[n]o person shall be put in jeopardy twice for the same offense.” This constitutional protection precludes the imposition of multiple criminal punishments for the same offense.<sup>1</sup>

In *Alex v. State*, the Alaska Supreme Court held that a defendant’s loss of good time credit in a prison disciplinary proceeding does not constitute punishment for double jeopardy purposes and therefore does not bar a criminal prosecution based on the same conduct.<sup>2</sup> Stiers argues that his case is distinguishable from *Alex* because his case involves the imposition of punitive segregation rather than the loss of good time credit.

But after Stiers filed his brief in this case, we rejected the same claim in *State v. Johnson*.<sup>3</sup> In *Johnson*, we recognized that “[c]ourts from other jurisdictions are unanimous in holding that punitive segregation does not constitute a criminal punishment for purposes of the double jeopardy clause, and that the imposition of punitive segregation by prison officials does not bar a subsequent criminal prosecution for the same misconduct.”<sup>4</sup> We reached the same result under the Alaska Constitution, holding that “short-term punitive segregation . . . does not constitute a punishment for double jeopardy purposes.”<sup>5</sup> We therefore reversed the dismissal of a prosecution against the defendant that was based on the same conduct for which the Department of Corrections had imposed a 60-day segregation period.

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<sup>1</sup> *See Johnson v. State*, 328 P.3d 77, 86 (Alaska 2014).

<sup>2</sup> *Alex v. State*, 484 P.2d 677, 683-84 (Alaska 1971).

<sup>3</sup> *State v. Johnson*, 389 P.3d 72 (Alaska App. 2017).

<sup>4</sup> *Id.* at 73 (collecting state and federal cases).

<sup>5</sup> *Id.*

We conclude that Stiers's double jeopardy claim is governed by our decision in *Johnson*.

Stiers raises a number of other arguments, but ultimately these arguments hinge on Stiers's assertion that punitive segregation constitutes a criminal penalty. Because we have already rejected this underlying assertion, we reject Stiers's remaining claims.

We AFFIRM the decision of the superior court denying Stiers's motion to vacate his sentence.