

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

ANTHONY KENNETH CAMARA,
Appellant,
v.
STATE OF ALASKA,
Appellee.

Court of Appeals No. A-12299
Trial Court No. 3AN-14-11101 CR

MEMORANDUM OPINION

No. 6554 — December 13, 2017

Appeal from the District Court, Third Judicial District,
Anchorage, Jennifer Henderson, Judge.

Appearances: Jason A. Weiner, Gazewood & Weiner, P.C.,
Fairbanks, for the Appellant. Andrew Grannik, Assistant
District Attorney, Anchorage, and Jahna Lindemuth, Attorney
General, Juneau, for the Appellee.

Before: Mannheimer, Chief Judge, Allard, Judge, and Suddock,
Superior Court Judge.*

Judge MANNHEIMER.

Anthony Kenneth Camara was convicted of attempted third-degree theft
and fourth-degree assault based on an incident at a Home Depot store. According to the

* Sitting by assignment made pursuant to Article IV, Section 16 of the Alaska
Constitution and Administrative Rule 24(d).

State's evidence, Camara tried to take some appliances from the store without paying, and then, when he was confronted, he threatened a store employee with a bat.

In this appeal, Camara argues that the evidence presented at his trial is legally insufficient to support his convictions. But Camara's arguments are premised on viewing the trial evidence in the light most favorable to himself. This Court, on the other hand, is required to view the evidence (and all inferences that might reasonably be drawn from that evidence) in the light most favorable to supporting the verdicts.¹ Viewing the evidence in that light, it is sufficient to support Camara's convictions for attempted theft and assault.

Camara also challenges his sentence. Camara received a sentence of 90 days' imprisonment with 80 days suspended (*i.e.*, 10 days to serve) for the attempted theft, and a completely suspended concurrent sentence of 240 days' imprisonment for the assault.

On appeal, Camara argues that the sentencing judge should have given him a suspended imposition of sentence for the attempted theft. But Camara was not a youthful offender (he was 33 years old at the time of these offenses), and he had a prior misdemeanor assault conviction from 2003. Moreover, Camara's act of attempted theft might have supported a felony charge — second-degree robbery — because Camara initially resisted with force when store employees attempted to regain possession of the appliances.²

¹ See, e.g., *Iyapana v. State*, 284 P.3d 841, 848-49 (Alaska App. 2012); *Morrell v. State*, 216 P.3d 574, 576 (Alaska App. 2009).

² See AS 11.41.510(a), which defines the offense of second-degree robbery as taking or attempting to take property from the immediate presence and control of another, and, in the course of the taking or attempted taking, using force or threatening to use immediate force upon anyone with the intent of preventing or overcoming resistance to the taking of the property or the retention of the property after the taking.

In addition, the sentencing judge found that Camara refused to acknowledge responsibility for his conduct in this case — that he instead blamed everyone else for his predicament.

In light of this record, we conclude that the sentencing judge was not clearly mistaken when she declined to give Camara a suspended imposition of sentence for his attempted theft conviction.³

The judgement of the district court is AFFIRMED.

³ See *McClain v. State*, 519 P.2d 811, 813-14 (Alaska 1974) (an appellate court is to affirm a sentencing decision unless the decision is clearly mistaken).