

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
FIRST JUDICIAL DISTRICT AT JUNEAU

STATE OF ALASKA,

Plaintiff,

v.

KARI M. HEALEY,

Defendant.

FILED IN CHAMBERS
STATE OF ALASKA
FIRST JUDICIAL DISTRICT AT JUNEAU
BY: KJK ON: Apr. 28, 2015

Case No. 1JU-14-503 CR

ORDER REFERRING CASE TO THREE-JUDGE PANEL

Kari Healey was convicted, pursuant to a plea agreement, of Attempted Burglary in the Second Degree, a class C felony, as a result of an offense in which she broke into a friend's apartment and stole \$1,400 in cash and some other items. Ms. Healey was convicted over seven years earlier of Theft in the Second Degree. Thus Ms. Healey faces a presumptive sentencing range of 2-4 years.

A sentencing hearing was held in this case on April 28, 2015. At that hearing, the court heard testimony from three witnesses.

Michael DeBell of Sitka Counseling and Prevention Services testified that Ms. Healey successfully completed inpatient substance abuse treatment through Sitka Counseling and Prevention Services from November 5, 2014, through January 27, 2015. Mr. DeBell further testified that Ms. Healey satisfied all the recommendations of the treatment program, which is a level 3.1 Residential Treatment Program.

Sabrina Smith, of the Sitka Tribe of Alaska, testified that Ms. Healey has been employed by the Tribe since January of 2015 as a Public Transit driver. Ms. Healey began working on call, and has now obtained permanent employment at 33 hours a week. Ms. Smith testified that Ms. Healey is a valued employee of the program.

Michael Baines, Ms. Healey's uncle, also testified. Mr. Baines testified that Ms. Healey lives with him and his mother (Ms. Healey's grandmother) in Sitka. Mr. Baines testified that Ms. Healey is doing well, and that she helps to care for her grandmother who recently turned 90. Ms. Healey's grandmother is in poor health, and Ms. Healey often spends the night with her at the hospital.¹ Mr. Baines testified that Ms. Healey can continue to reside with them indefinitely if she does not have to go back to jail.

After hearing the evidence, the arguments of counsel, and Ms. Healey's allocution, the court refers this matter to the three judge panel pursuant to AS 12.55.165(a). The court finds by clear and convincing evidence that it would be manifestly unjust to impose the two year presumptive term. The court further finds by clear and convincing evidence that it would be manifestly unjust not to consider the non-statutory mitigator of extraordinary prospects for rehabilitation.² The court relies for these conclusions upon the following factors:

1. Ms. Healey has completed an inpatient substance abuse treatment program, and has done so on her own initiative prior to sentencing.

2. Ms. Healey has obtained stable employment since completing treatment.

3. Ms. Healey is in a stable living situation with supportive family members.

4. After committing this offense, Ms. Healey attempted to make good the harm she caused, and apologized for the crime, before being charged.

5. Both this offense and Ms. Healey's prior offense were property crimes related to Ms. Healey's addiction, and were committed in concert with a boyfriend or husband who was also in the throes of addiction.

6. Ms. Healey's prior conviction was convicted 7 years before this offense. Ms. Healey successfully completed her probation in that case, and paid all of her restitution.

¹ Ms. Healey stated in her allocution that her grandmother was taken off dialysis yesterday.

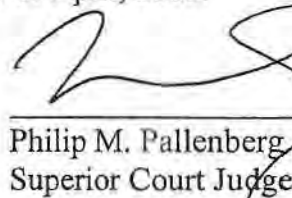
² The State did not allege any aggravating factors, and the court did not find any.

7. The State is not seeking a sentence of additional jail time.

Given all of these factors, I find that a probationary sentence, which primarily focuses on Ms. Healey's rehabilitation, and which imposes suspended time for deterrent purposes, would best address the *Chaney* criteria. If this court had authority to impose a sentence under the presumptive term, I would impose a sentence of three (3) years in jail, with all but time served suspended, with credit for the time spent in inpatient treatment from November 5, 2014 through January 27, 2015. I would impose standard conditions of probation, including substance abuse testing and treatment conditions, and would allow the state additional time to submit a claim for restitution.

This order should be transmitted to the three judge panel for its consideration.

Entered at Juneau, Alaska this 28 day of April, 2015.


Philip M. Pallenberg
Superior Court Judge

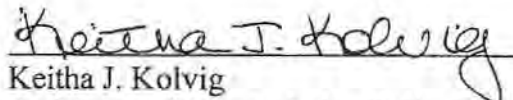


CERTIFICATION OF SERVICE

I certify that I served the following parties on the ____ day of April, 2015

District Attorney	Gregory Parvinkk
<input checked="" type="checkbox"/> Via Fax & Et Box ^{xx}	<input checked="" type="checkbox"/> Via U.S. Mail and Fax

Judge Eric Smith
via Email


Keitha J. Kolvig
Judicial Assistant to Judge Pallenberg