

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

DUOL JOHN CHUOL,

Appellant,

v.

STATE OF ALASKA,

Appellee.

Court of Appeals No. A-12675  
Trial Court No. 3AN-13-3889 CR

MEMORANDUM OPINION

No. 6565 — January 10, 2018

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

Appearances: Michael T. Schwaiger, Assistant Public Defender,  
and Quinlan Steiner, Public Defender, Anchorage, for the  
Appellant. Clinton M. Campion, District Attorney, Anchorage,  
and Jahna Lindemuth, Attorney General, Juneau, for the Appel-  
lee.

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

Judge ALLARD.

Duol John Chuol was indicted on charges of first-degree murder and  
second-degree murder for stabbing and killing his friend Mabil Duir. Chuol and Duir

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

were close friends who were drinking alcohol together in East Anchorage. Duir was drunk, and Chuol became angry when Duir broke the bottle of liquor that Chuol had acquired for them to share. Chuol then stabbed Duir six times, killing him. Chuol fled the scene but was apprehended by the police. Chuol admitted to stabbing Duir, and expressed remorse.

Chuol later pleaded guilty to second-degree murder. In exchange for his guilty plea, the State dismissed the first-degree murder charge. Sentencing was otherwise open. At the sentencing hearing, Chuol's attorney requested a sentence of 50 years with 20 years suspended (30 years to serve), a sentence within the *Page* benchmark.<sup>1</sup> The State's attorney requested a sentence of 75 years to serve. The superior court ultimately imposed a sentence of 60 years with 10 years suspended (50 years to serve), a sentence above the *Page* benchmark.

Chuol now appeals, arguing that the sentence is excessive. We have independently reviewed the sentencing record and, based on that review, we conclude that the sentence is within the range of reasonable sentences that reasonable judges would impose in these circumstances.<sup>2</sup> Accordingly, the sentence is not clearly mistaken.<sup>3</sup> We note that the superior court directly acknowledged the importance of the *Page* benchmark at sentencing, and the court provided explicit reasons for why it believed that a departure from that benchmark was necessary in this particular case. In its sentencing remarks, the superior court recognized that Chuol had potential for rehabilitation, and the court also noted that Chuol's behavior in custody had improved

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<sup>1</sup> See *Page v. State*, 657 P.2d 850, 855 (Alaska App. 1988). Chuol had prior out-of-state convictions, but none of those prior convictions qualified as felony convictions for purposes of Alaska law.

<sup>2</sup> See *McClain v. State*, 519 P.2d 811, 813-14 (Alaska 1974).

<sup>3</sup> *Id.*

since he began receiving mental health treatment. But the court ultimately concluded that the violent, unprovoked, and largely inexplicable nature of the attack required the lengthy sentence imposed.

Because we conclude that the sentence imposed is not clearly mistaken, we AFFIRM the superior court's judgment.