

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

D.N., a minor,

Appellant,

v.

STATE OF ALASKA,

Appellee.

Court of Appeals No. A-12803  
Trial Court No. 3AN-15-094 DL

MEMORANDUM OPINION

No. 6566 — January 10, 2018

Appeal from the Superior Court, Third Judicial District,  
Anchorage, Kevin M. Saxby, Judge.

Appearances: Josie Garton, Assistant Public Defender, and  
Quinlan Steiner, Public Defender, Anchorage, for the Appellant.  
Terisia K. Chleborad, Assistant Attorney General, Office of  
Criminal Appeals, Anchorage, and Jahna Lindemuth, Attorney  
General, Juneau, for the Appellee.

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

Judge ALLARD.

Fifteen-year-old D.N. was on the Chester Creek bike trail with his brother  
and a friend when a bicyclist rode by. D.N. swung a five-foot-long tree branch into the

---

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

cyclist's face, causing significant injuries to the cyclist's nose and the bones in his face. As a result of his injuries, the cyclist had to undergo multiple medical procedures. He now has five metal plates in his face and man-made orbital sockets; he has also lost his sense of smell and taste. His medical expenses from the injuries ultimately amounted to over \$200,000.

D.N. was subsequently adjudicated a delinquent minor after he admitted that he had committed what would have been second-degree assault if he had been an adult. In a handwritten letter submitted at the disposition hearing, D.N. took full responsibility for his actions and detailed the counseling he had already undertaken. D.N. was placed on two years' probation and ordered to perform 100 hours of community work service.

As part of D.N.'s disposition, the State requested that D.N. be ordered to pay restitution in the amount of \$18,115.01 — which was the amount that the Violent Crimes Compensation Board had paid to the victim to compensate him for lost wages and various medical expenses. D.N. opposed this request on the ground that this amount would be contrary to his rehabilitation and would send him into adulthood “with a staggering debt.” Instead, D.N. proposed that the amount of restitution be based on his ability to pay.

The State did not object to the court considering D.N.'s ability to pay when setting restitution in his case. And the record shows that Magistrate Judge Donna McCready did carefully consider D.N.'s ability to pay when she assessed what would qualify as “suitable restitution” under AS 47.12.120(b)(4). The magistrate judge ultimately concluded, however, that \$18,115.01 constituted “suitable restitution” in this case because this amount was enough to help D.N. learn from the experience but not such a large amount that it would interfere with his rehabilitation. The magistrate judge

also put certain limits on the restitution order, including eliminating any requirement that D.N. pay interest on the amount.

The magistrate judge documented her findings supporting the restitution amount in a comprehensive report that was transmitted to the superior court. The superior court fully adopted the magistrate judge's findings and ordered restitution in the recommended amount.

D.N. now appeals, arguing that the restitution ordered in his case is excessive and that it will have a detrimental effect on his future rehabilitation. We have reviewed the magistrate judge's report and the evidentiary hearing on which it was based, and we find no error in the magistrate judge's findings or in the superior court's adoption of those findings.

Accordingly, we AFFIRM the judgment of the superior court.