

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

DAVID W. MASON,

Appellant,

v.

STATE OF ALASKA,

Appellee.

Court of Appeals No. A-12467
Trial Court No. 1KE-14-153 CR

MEMORANDUM OPINION

No. 6617 — April 11, 2018

Appeal from the Superior Court, First Judicial District,
Ketchikan, William B. Carey, Judge.

Appearances: Justin A. Tapp, Denali Law Group, Anchorage,
under contract with the Office of Public Advocacy, for the
Appellant. Benjamin J. Hofmeister, District Attorney, Ketchi-
kan, and Jahna Lindemuth, Attorney General, Juneau, for the
Appellee.

Before: Mannheimer, Chief Judge, and Allard and Wollenberg,
Judges.

Judge MANNHEIMER.

David W. Mason was convicted of sexual abuse of a minor in the first and second degrees, for engaging in sexual penetration and sexual contact with his 14-year-old stepdaughter, A.H.

In this appeal, Mason contends that his convictions are not supported by “the substantial weight of the evidence”. This is a misstatement of the test for determining whether a criminal conviction is supported by legally sufficient evidence.

When an appellate court evaluates the sufficiency of the evidence to support a guilty verdict in a criminal trial, we use the “substantial evidence” test — but this phrase does not refer to the “substantial weight” of the evidence. An appellate court does not assess the weight of the evidence. Rather, under the “substantial evidence” test, an appellate court views the evidence (and the inferences that could reasonably be drawn from that evidence) in the light most favorable to upholding the jury’s verdict, and then we assess whether the evidence, viewed in that light, was sufficient to convince reasonable jurors that the State had proved its case beyond a reasonable doubt.¹

Mason raises several attacks on the sufficiency of the evidence in his brief, but all of these arguments hinge on viewing the evidence in a light favorable to himself. In particular, Mason argues that the jury should have accepted his contention that he mistakenly thought he was engaging in sexual activity with his wife, not his stepdaughter, and that he stopped immediately upon realizing his mistake.

But as we have explained, appellate courts are required to view the evidence in the light most favorable to upholding the verdict. Viewing the evidence in Mason’s case in that light, we conclude that it was sufficient to convince reasonable jurors that Mason had committed the offenses with which he was charged. The evidence was therefore legally sufficient.

The judgement of the superior court is AFFIRMED.

¹ See, e.g., *Dorman v. State*, 622 P.2d 448, 453 (Alaska 1981); *Spencer v. State*, 164 P.3d 649, 653 (Alaska App. 2007).