

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

EMANUAL LEE ITTA,

Appellant,

v.

STATE OF ALASKA,

Appellee.

Court of Appeals Nos. A-12523 & A-12524
Trial Court Nos. 4FA-14-810 CR
& 4FA-05-3200 CR

MEMORANDUM OPINION

No. 6633 — May 16, 2018

Appeal from the Superior Court, Fourth Judicial District,
Fairbanks, Paul R. Lyle and Michael P. McConahy, Judges.

Appearances: Michael L. Barber, Barber Legal Services,
Boston, Massachusetts, under contract with the Office of Public
Advocacy, Anchorage, for the Appellant. Donald Soderstrom,
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.

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

Emanuel Lee Itta was convicted, following a jury trial, of second-degree assault¹ based on allegations that he strangled his wife. Based on this conviction, the superior court also revoked Itta's probation in a prior case.

Itta now appeals his conviction and the revocation of his probation, arguing that the superior court erred when it qualified the registered nurse who treated Itta's wife as an expert in strangulation. Whether a witness should be qualified as an expert is entrusted to the sound discretion of the trial judge.² The record in the current case established that the witness had been a registered nurse for fifteen years and a certified forensic nurse for five years. The witness had also received extensive forensic training, including training on strangulation, and had worked on twenty-five strangulation cases. Accordingly, we find no merit to Itta's claim that the superior court abused its discretion when it qualified this witness as an expert in strangulation.³

The judgments of the superior court in both cases are therefore **AFFIRMED**.

¹ AS 11.41.210.

² See *Dymenstein v. State*, 720 P.2d 42, 45 (Alaska App. 1986).

³ See *Carter v. State*, 235 P.3d 221, 226 (Alaska App. 2010) (holding that the trial court did not abuse its discretion in qualifying a police officer as an expert on the physical signs of strangulation when the record showed that the officer had extensive experience).