

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

MICHAEL STEVEN GONZALEZ,  
  
Appellant,  
  
v.  
  
STATE OF ALASKA,  
  
Appellee.

Court of Appeals No. A-11983  
Trial Court No. 3AN-14-3146 CR

MEMORANDUM OPINION

No. 6148 — February 25, 2015

Appeal from the District Court, Third Judicial District,  
Anchorage, Leslie Dickson, Judge.

Appearances: Brittany Goodnight, Assistant Public Defender,  
and Quinlan Steiner, Public Defender, Anchorage, for the  
Appellant. A. James Klugman, Assistant District Attorney,  
Anchorage, and Michael C. Geraghty, Attorney General, Juneau,  
for the Appellee.

Before: Mannheim, Chief Judge, and Allard and Kossler,  
Judges.

PER CURIAM.

Pursuant to an open-sentencing plea agreement with the State, Michael Steven Gonzalez was convicted of violating a domestic violence protective order for calling his ex-girlfriend from jail. District Court Judge Leslie Dickson found Gonzalez to be a worst offender and sentenced him to 360 days for this offense.

At the sentencing hearing, Judge Dickson based her worst-offender finding on the fact that Gonzalez had at least fourteen convictions within the prior seven years, the majority of which involved the same victim as in this case. His convictions included seven assault convictions (one a felony), convictions for harrassment and unlawful contact, and multiple convictions for violating domestic violence protective orders and conditions of release. Judge Dickson found Gonzalez’s current offense was “highly aggravated” because he had a consistent history of contacting his ex-girlfriend in violation of court orders. She explained that her sentence was intended to express community condemnation of Gonzalez’s conduct and to deter him.

On appeal, Gonzalez argues that the judge erred in finding him a worst offender; that she did not give sufficient weight to his rehabilitation prospects; that she improperly considered the sentence and worst-offender finding that Gonzalez had received in a recent case; and that she imposed an excessive sentence.

A sentencing judge’s worst-offender finding can be based on either the defendant’s current offense or his criminal history.<sup>1</sup> The sentencing judge has the primary responsibility for determining the priority and weight of the various sentencing goals codified in AS 12.55.005.<sup>2</sup> Based on Gonzalez’s criminal record and his current offense, we do not find any error in Judge Dickson’s worst-offender finding. Nor do we find that Judge Dickson erred in emphasizing community condemnation and deterrence over rehabilitation in sentencing Gonzalez.

Gonzalez argues that Judge Dickson was wrong to consider the 400-day sentence and worst-offender finding he received in a case from four months earlier when she did not know the underlying factual circumstances of that case. Judge Dickson

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<sup>1</sup> See *Weitz v. State*, 794 P.2d 952, 958 (Alaska App. 1990).

<sup>2</sup> See *Asitonia v. State*, 508 P.2d 1023, 1026 (Alaska 1973).

correctly considered the fact that Gonzalez had not been deterred by the 400-day sentence (and accompanying finding of worst offender) he had received in the case — which involved the same victim — and that he committed his current offense from jail while serving that 400-day sentence.

Having independently reviewed the record, we conclude that Judge Dickson’s findings are supported by the record and that the 360-day sentence she imposed is not clearly mistaken.<sup>3</sup>

We AFFIRM Gonzalez’s sentence.

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<sup>3</sup> See *McClain v. State*, 519 P.2d 811, 813-14 (Alaska 1974).