

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

CLARENCE KAMEROFF,

Appellant,

v.

STATE OF ALASKA,

Appellee.

Court of Appeals No. A-12650
Trial Court No. 4BE-95-622 CR

MEMORANDUM OPINION

No. 6699 — September 12, 2018

Appeal from the Superior Court, Third Judicial District,
Anchorage, Michael L. Wolverton, Judge.

Appearances: Joseph Van De Mark, Assistant Public Advocate,
Criminal Defense Section, and Richard Allen, Public Advocate,
Anchorage, and Clarence Kameroff, *in propria persona*,
Wasilla, 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, and Allard, Judge.

Judge MANNHEIMER.

In 1995, in superior court case number 4BE-95-622 CR, Clarence Kameroff was charged with first-degree sexual assault and second-degree assault. The following year, Kameroff was convicted of these crimes, and he received a composite sentence of 21 years to serve with 4 years suspended (*i.e.*, 17 years to serve). *See Kameroff v. State*,

unpublished, 1998 WL 80108 (Alaska App. 1998). Kameroff's term of probation was 6 years.

On November 30, 2007, after serving his active sentence of imprisonment, Kameroff was released from prison to begin his 6-year probation.

A few months later, in March 2008, the superior court revoked Kameroff's probation and imposed 30 days of his suspended jail time, based on Kameroff's failure to report to his probation officer, his living at an unapproved residence, and his drinking alcoholic beverages.

At the end of October 2008, the superior court again revoked Kameroff's probation and this time imposed 90 days of his suspended jail time, based on Kameroff's failure to report to his probation officer, his drinking alcoholic beverages, and his failure to complete a substance abuse treatment program.

In August 2010, the State petitioned the superior court to revoke Kameroff's probation once again — this time based on the allegation that Kameroff had committed a new sexual assault in Anchorage. (This sexual assault allegation resulted in a new criminal case against Kameroff: superior court case number 3AN-10-8806 CR.)

Nearly five years later, Kameroff and the State reached a plea agreement to resolve both the probation revocation petition in Kameroff's 1995 case and Kameroff's new criminal case from 2010. In the 2010 criminal case, Kameroff pleaded guilty to a reduced charge of coercion, and he received a sentence of 3 years to serve. In the probation revocation proceeding in the 1995 case, Kameroff agreed that the superior court would revoke his probation, would impose 2 years of Kameroff's remaining suspended jail time, and then would terminate Kameroff's probation.

On July 2, 2015, the superior court accepted this plea agreement and imposed sentence in accordance with the agreement.

Eight months later, on March 1, 2016, Kameroff filed a *pro se* motion under Alaska Criminal Rule 35(a) to correct his sentence. In this motion, Kameroff asserted that his term of probation from the 1995 case had already expired as of July 2015. Based on this assertion, Kameroff argued that it was illegal for the superior court to follow the terms of the plea agreement by revoking Kameroff’s probation in the 1995 case and imposing 2 years of the previously suspended jail time.

The superior court rejected Kameroff’s claim, and he now appeals. However, Kameroff’s court-appointed attorney has filed an “*Anders*” brief—that is, a brief conceding that there is no arguable merit to Kameroff’s claim.¹ In response, Kameroff has filed a *pro se* brief in which he renews his argument that his probation ended before July 2015. (More specifically, Kameroff asserts that his probation ended in 2013.) This Court’s task is to independently review the record to see if there is any arguable merit to Kameroff’s claim.

As we explained earlier, Kameroff received a composite sentence of 17 years to serve in his 1995 case, and he was released from prison at the end of November 2007 to begin his 6-year term of probation. At that time, Kameroff’s probation was scheduled to expire in November 2013.

However, as we also explained, the State filed three separate petitions to revoke Kameroff’s probation. In each case, Kameroff was found to have violated his probation. Because of this, Kameroff’s probation was not running while those three

¹ See *Anders v. California*, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967) (holding that if a defendant’s court-appointed appellate attorney reviews the trial record and concludes that there are no non-frivolous issues to raise on appeal, the attorney may request to withdraw, but that withdrawal request must be accompanied by a brief that refers to anything in the record that might arguably support the appeal).

petitions were pending. *See Mantor v. State*, 359 P.3d 985, 988 (Alaska App. 2015); *Gage v. State*, 702 P.2d 646, 647 (Alaska App. 1985).

Indeed, Kameroff's term of probation stopped running on August 16, 2010 — when the State filed the third petition to revoke Kameroff's probation, based on his commission of a sexual assault in Anchorage — and it never commenced running again. Kameroff's probation remained stayed through July 2, 2015 — when, in accordance with the parties' plea bargain, the superior court revoked Kameroff's probation, imposed 2 years of his remaining suspended jail time, and then terminated his probation.

For these reasons, we agree with Kameroff's court-appointed attorney that there is no arguable merit to Kameroff's claim that his probation expired before July 2015.

We accordingly AFFIRM the superior court's denial of Kameroff's request for relief under Criminal Rule 35(a).

(Given our conclusion that there is no arguable merit to Kameroff's claim that his term of probation expired before July 2015, we need not address the question of what relief Kameroff would have been entitled to if he had shown that a material component of his bargained-for sentence was illegal.)