

NOTICE

This is a summary disposition issued under Alaska Appellate Rule 214(a). Summary dispositions of this Court do not create legal precedent. See Alaska Appellate Rule 214(d).

IN THE COURT OF APPEALS OF THE STATE OF ALASKA

JASON ROBERT MADISON,

Appellant,

v.

STATE OF ALASKA,

Appellee.

Court of Appeals No. A-13697
Trial Court No. 3AN-18-00855 CR

SUMMARY DISPOSITION

No. 0305 — February 1, 2023

Appeal from the Superior Court, Third Judicial District,
Anchorage, Andrew Peterson, Judge.

Appearances: Michael L. Barber, Attorney at Law, under contract with the Public Defender Agency, and Samantha Cherot, Public Defender, Anchorage, for the Appellant. Michal Stryszak, Assistant Attorney General, Office of Criminal Appeals, Anchorage, and Treg R. Taylor, Attorney General, Juneau, for the Appellee.

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

Jason Robert Madison was convicted, following a jury trial, of first-degree assault for strangling a four-year-old child with a belt.¹ Madison now appeals the trial court's decision to admit a video recording of a pretrial interview with the child at Alaska CARES, a child advocacy center. Madison claims that the trial court erroneously

¹ AS 11.41.200(a)(1).

concluded that the foundational requirements for admission of the video were met. Specifically, Madison argues that the court should have excluded the video because the interviewer guided the child — who was susceptible to influence because of developmental issues — to make incriminating statements regarding Madison. Madison also claims that the trial court failed to make sufficient findings supporting its decision to admit the video.

Under Alaska Evidence Rule 801(d)(3), the pretrial video-recorded statement of a crime victim under the age of sixteen is excluded from the hearsay rule if eight foundational requirements are met, including that “the taking of the statement as a whole was conducted in a manner that would avoid undue influence of the victim” and “the court has had an opportunity to view the recording and determine that it is sufficiently reliable and trustworthy and that the interests of justice are best served by admitting the recording into evidence.”² In *Augustine v. State*, we held that this rule requires trial courts “(1) to affirmatively determine that the child’s statement was elicited in a neutral and non-leading manner, and (2) to independently evaluate the reliability and trustworthiness of the statement” before admitting the statement over a defense objection.³

In this case, the trial court issued a written order expressly concluding that each foundational requirement was met. In its order, the court found that the interview was conducted by a trained interviewer who was “very cautious about putting words in [the child’s] mouth and/or ideas in his mind.” The court acknowledged that the interviewer had asked a few leading questions. But the court nonetheless found that the child was “allowed to tell his own story” — as exemplified by the fact that the child

² Alaska R. Evid. 801(d)(3)(F) and (H), respectively.

³ *Augustine v. State*, 355 P.3d 573, 584 (Alaska App. 2015).

responded, “I don’t know” to a number of questions and identified who had caused his injuries and how. The court stated that it had reviewed the recorded interview and concluded that overall, the interview was done “in a neutral and non-suggestive manner.” We conclude that these findings adequately addressed the objections Madison made to the reliability of the interview, and are sufficient to demonstrate that the trial court engaged in an independent evaluation of the foundational requirements for admission of the video.

We have also independently reviewed the video. Having done so, we conclude that the court’s factual findings are not clearly erroneous and that the court did not abuse its discretion in admitting the video.⁴

The judgment of the superior court is AFFIRMED.

⁴ See *Hayes v. State*, 474 P.3d 1179, 1188 (Alaska App. 2020) (reviewing decision to admit video recording of child’s statement for abuse of discretion); *Booth v. State*, 251 P.3d 369, 373 (Alaska App. 2011) (explaining that findings of historical fact are reviewed for clear error).