

IN THE COURT OF APPEALS OF THE STATE OF ALASKA

JAMES KARR  
Appellant,

v.  
STATE OF ALASKA,  
Appellee.

Court of Appeals No. A-\_\_\_\_\_

Trial Case No. 4FA-19-00872CR

DARRELL SAM  
Appellant,

v.  
STATE OF ALASKA,  
Appellee.

Court of Appeals No. A-\_\_\_\_\_

Trial Case No. 4GA-18-00034CR

ERWIN NASHOANAK  
Appellant,

v.  
STATE OF ALASKA,  
Appellee.

Court of Appeals No. A-\_\_\_\_\_

Trial Case No. 3KN-19-02098CR

**CONSOLIDATED APPEAL OF ORDERS DENYING BAIL REVIEW HEARINGS**

**VRA AND APP. R. 513.5 CERTIFICATION**

I certify that this document and its attachments do not contain (1) the name of a victim of a sexual offense listed in AS 12.61.140 or (2) a residence or business address or telephone number of a victim of or witness to any offense unless it is an address used to identify the place of the crime or it is an address or telephone number in a transcript of a court proceeding and disclosure of the information was ordered by the court. I further certify, pursuant to App. R. 513, that the font used in this document is Arial 12.5 point.

**INTRODUCTION**

As of March 19, 2020, the novel coronavirus that causes COVID-19 has infected 207,855 people around the world and caused 8,648 deaths.<sup>1</sup> The United

<sup>1</sup> See Novel Coronavirus (COVID-19) Situation, World Health Organization, <https://experience.arcgis.com/experience/685d0ace521648f8a5beeeee1b9125cd>.

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1  
2 States has 7,087 confirmed cases,<sup>2</sup> and Alaska has 9 confirmed cases.<sup>3</sup> The World  
3 Health Organization officially classified COVID-19 as a pandemic on March 11,  
4 2020,<sup>4</sup> and, the same day, Governor Mike Dunleavy issued a Public Health Disaster  
5 Emergency Declaration.<sup>5</sup>

6  
7 The World Health Organization (WHO), the Centers for Disease Control  
8 and Prevention (CDC), and the State of Alaska have each issued guidance or  
9 mandates for limiting contact between individuals and implementing preventative  
10 actions to avoid the spread of COVID-19.<sup>6</sup> Individuals detained in jails or prisons  
11 lack the ability to comply with these directives, and the conditions under which these  
12 individuals are detained create an ideal environment for the transmission of  
13 contagious disease generally.<sup>7</sup> This places pretrial detainees, many of whom are  
14

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15  
16 <sup>2</sup> *Id.*

17 <sup>3</sup> See COVID-19 Case Counts, Dep't of Health & Soc. Servs.,  
18 [dhss.alaska.gov/dph/Epi/id/Pages/COVID-19/monitoring.aspx](https://dhss.alaska.gov/dph/Epi/id/Pages/COVID-19/monitoring.aspx).

19 <sup>4</sup> *WHO Characterizes COVID-19 as a Pandemic*, World Health  
20 Organization (Mar. 11, 2020), [https://www.who.int/emergencies/diseases/novel-](https://www.who.int/emergencies/diseases/novel-coronavirus-2019/events-as-they-happen)  
[coronavirus-2019/events-as-they-happen](https://www.who.int/emergencies/diseases/novel-coronavirus-2019/events-as-they-happen).

21 <sup>5</sup> Governor Issues Public Health Disaster Emergency Declaration for  
22 COVID-19 (Mar. 11, 2020), [https://gov.alaska.gov/newsroom/2020/03/11/governor-](https://gov.alaska.gov/newsroom/2020/03/11/governor-issues-public-health-disaster-emergency-declaration-for-covid-19/)  
23 [issues-public-health-disaster-emergency-declaration-for-covid-19/](https://gov.alaska.gov/newsroom/2020/03/11/governor-issues-public-health-disaster-emergency-declaration-for-covid-19/).

24 <sup>6</sup> See, e.g., Coronavirus disease (COVID-19) advice for the public,  
25 [who.int/emergencies/diseases/novel-coronavirus-2019/advice-for-public](https://www.who.int/emergencies/diseases/novel-coronavirus-2019/advice-for-public); How to  
26 Protect Yourself, [www.cdc.gov/coronavirus/2019-nccv/prepare/prevention.html](https://www.cdc.gov/coronavirus/2019-nccv/prepare/prevention.html);  
Health Alerts 003 – 008 and Health Mandates 001 – 004, COVID-19: Situation  
Overview, [dhss.alaska.gov/dph/Epi/id/Pages/COVID-19/default.aspx](https://dhss.alaska.gov/dph/Epi/id/Pages/COVID-19/default.aspx).

27 <sup>7</sup> Joseph A. Bick, *Infection Control in Jails and Prisons*, 45(8) CLINICAL  
28 INFECTIOUS DISEASES 1047-1055 (2007), <https://doi.org/10.1086/521910>; see also  
Dep't of Health & Soc. Servs., ALASKA TUBERCULOSIS PROGRAM MANUAL, at 5.7 (Jan.  
2017) (stating that tuberculosis screening “is especially important for” people “injails,

1  
2 considered high-risk with respect to COVID-19, at greater risk of contracting the  
3 disease.

4  
5 A court order setting conditions of release from pretrial confinement  
6 issued before the novel coronavirus was reported in Alaska or in significant numbers  
7 in the United States did not consider the potential risk to an individual's health from  
8 continued detention when determining whether the conditions of release were the  
9 least restrictive necessary to ensure appearance and protect the public. Courts  
10 across the state, however, are denying requests for bail review, stating that the  
11 pandemic does not constitute "new information" or a "changed circumstance"  
12 justifying bail review. The pretrial detainees who have been denied review of their  
13 bail conditions in light of the heightened posed to those living in custody during the  
14 COVID-19 pandemic ask this court to reverse the trial court orders' denying a bail  
15 hearing.  
16

## 17 **FACTUAL BACKGROUND**

### 18 **James Karr**

19  
20 In March 2019, James Karr, who is 73 years old, was charged by  
21 information with attempted murder<sup>8</sup> and fourth-degree weapons misconduct.<sup>9</sup> [Att.  
22 A] The court ordered Karr to execute a \$100,000 cash performance bond and to  
23

24  
25 \_\_\_\_\_  
26 prisons, and other congregate facilities" and noting that people with positive AFB  
27 sputum smear results should not be directly discharged from hospital to  
28 "[c]ongregate living site (e.g., shelter, nursing home, jail, prison, group home,  
another hospital).

27 <sup>8</sup> AS 11.31.100; AS 11.41.100(a).

28 <sup>9</sup> AS 11.61.210(a)(1).

1  
2 comply with PED supervision, including electronic monitoring and alcohol  
3 monitoring. [Att. B] In January 2020, Karr pleaded guilty to second-degree assault.<sup>10</sup>  
4 He remains in custody awaiting sentencing.

5  
6 On March 16, Karr filed an application for a second or subsequent bail  
7 review hearing, asking that his bail be modified to \$500 cash and PED house arrest  
8 with electronic monitoring.<sup>11</sup> [Att. C] In the section on the court form for the new  
9 information not previously considered, Karr explained:

10 Mr. Karr has pled to assault in the second degree/the case is resolved.  
11 He is not facing a possible attempted murder sentence. Also, Mr. Karr  
12 has cancer, is elderly, and has a weakened immune system. Being  
13 incarcerated given the current medical crisis poses a huge risk to his  
life.

14 [Att. C] Counsel added that this information was not previously presented to the  
15 court because “[t]imes have changed.” [Att. C]

16 On March 17, Judge Thomas I. Temple denied Karr's application. [Att.  
17 D] The court explained, “Current medical crisis is not new information under the  
18 statutes.” [Att. D]

19  
20 **Darrell Sam**

21 In August 2018, the state charged Darrell Sam with one count of first-  
22 degree sexual abuse of a minor,<sup>12</sup> attempted first-degree sexual abuse of a minor,<sup>13</sup>  
23

24  
25 <sup>10</sup> AS 11.41.210(a)(1).

26 <sup>11</sup> Karr noted that his request was “contingent on PED approved housing.”  
[Att. C]

27 <sup>12</sup> AS 11.41.434(a)(1).

28 <sup>13</sup> AS 11.31.100; AS 11.41.434d(a)(1).

1  
2 and burglary.<sup>14</sup> [Att. E] The charges were alleged to have occurred in Huslia. [Att.  
3 E] The court imposed a \$25,000 cash performance bond and set conditions of  
4 release. [Att. F] In March 2019, this bond requirement was reduced to \$10,000, a  
5 third-party custodian requirement was added, and Sam was prohibited from  
6 returning to Huslia. [Att. G]

7  
8 On March 16, 2020, Sam filed an application for a second or  
9 subsequent bail review hearing. [Att. H] Sam asked that his bail be modified from  
10 \$10,000 to \$1,000 and that he be released to his mother. [Att. H] As his new  
11 information, Sam explained, "Jail is not a safe place to be right now du[e] to the  
12 coronavirus. Mr. Sam can live with his mother in Koyukuk." [Att. H]

13  
14 On March 17, Judge Thomas I. Temple denied Sam's application. [Att.  
15 I] The court stated, "This would be a 3rd bail review hearing. Coronavirus is not new  
16 grounds for a bail hearing." [Att. I]

17 **Erwin Nashoanak**

18  
19 In December 2018, the state charged Erwrin Nashoanak with one count  
20 of recidivist third-degree assault,<sup>15</sup> fifth-degree criminal mischief,<sup>16</sup> resisting arrest,<sup>17</sup>  
21 and disorderly conduct.<sup>18</sup> [Att. J] The court imposed a \$10,000 cash performance  
22 bond and required a third-party custodian, among other conditions, before  
23

24 <sup>14</sup> AS 11.46.300(a)(1).

25 <sup>15</sup> AS 11.41.220(a)(2).

26 <sup>16</sup> AS 11.46.486(a)(2).

27 <sup>17</sup> AS 11.56.700(a)(1).

28 <sup>18</sup> AS 11.61.110(a)(6).

1  
2 Nashoanak could be released. [Att. K] The state indicted Nashoanak in early  
3 January 2020 [Att. L], and on January 10, the court increased the performance bond  
4 to \$50,000 cash. [Att. M]

5  
6 On March 17, Nashoanak filed an application for a second or  
7 subsequent bail review hearing, asking that the court reduce his performance bond  
8 from \$50,000 cash to \$500 and that he be allowed telephonic contact with the  
9 complaining witness. [Att. N] For the required new information, Nashoanak stated:

10 The court should reconsider its position on bail in light of the COVID-19  
11 virus and the fact that pre-trial incarceration is the antithesis of social  
12 distancing. Also, the complaining witness contacted my office and  
13 requested that contact be allowed.

14 [Att. N]

15 On March 18, Judge Jason Gist denied Nashoanak's request. [Att. O]  
16 The court stated, "COVID-19 is not a sufficient basis as 'new information' for bail  
17 review." [Att. O]

## 18 ARGUMENT

### 19 The COVID-19 Pandemic Is "New Information" Justifying a Bail Review.

20 **A. A defendant's constitutional right to bail requires that any conditions**  
21 **of release be the least restrictive necessary to ensure the defendant's**  
22 **appearance and protection of the public.**

23 **1. A defendant's constitutional right to bail limits a court's**  
24 **discretion in setting conditions of release.**

25 The Alaska Supreme Court has explained that "[t]he subject of criminal  
26 procedure . . . is one in which this court has special responsibilities[,]" chiefly because  
27  
28

1  
2 “[t]he rights of those accused of crime are largely constitutionally based.”<sup>19</sup> These  
3 rights include the right to pretrial release on bail set out in article I, section 11 of the  
4 Alaska Constitution: “[t]he accused is entitled . . . to be released on bail, except for  
5 capital offenses when the proof is evident or the presumption great[.]” And they  
6 include the protection against excessive bail set out in article I, section 12 of the  
7 Alaska Constitution that complements the right to pretrial release: “[e]xcessive bail  
8 shall not be required[.]”  
9

10           The right of a defendant to pretrial release inheres in the fundamental  
11 notion that an individual accused of a criminal offense is innocent until proven guilty.  
12 As the Supreme Court of the United States has explained, pretrial release “serves to  
13 prevent the infliction of punishment prior to conviction.”<sup>20</sup> And it avoids the negative  
14 effects imprisonment has for a defendant’s job, source of income, and family  
15 relationships<sup>21</sup> – and a defendant’s health.  
16  
17

18           The right to pretrial release on works with the prohibition on excessive  
19 bail. Together, these provisions guarantee each criminal defendant the right to  
20

21 \_\_\_\_\_  
22 <sup>19</sup> *State v. Murtagh*, 169 P.3d 602, 609 (Alaska 2007). As the Alaska  
23 Supreme Court explained, “It is the obligation of the courts to interpret [constitutional]  
24 provisions so that they may be applied in particular cases and to ensure that the  
25 rights they provide are not infringed by any form of state action.” *Id.*

26 <sup>20</sup> *Stack v. Boyle*, 342 U.S. 1, 4 (1951); see also *Bandy v. United States*,  
27 81 S.Ct 197, 197 (1960) (“The fundamental tradition in this country is that one  
28 charged with a crime is not, in ordinary circumstances, imprisoned until after a  
judgment of guilt.”). Pretrial detention also preserves the ability of an accused to  
prepare his defense. *Stack*, 342 U.S. at 4 (“Th[e] traditional right to freedom before  
conviction permits the unhampered preparation of defense[.]”).

<sup>21</sup> *Carman v. State*, 564 P.2d 361, 364 n.10 (Alaska 1977).

1  
2 release on bail that is reasonable with respect to that particular defendant under the  
3 circumstances of his particular case. As the Alaska Supreme Court has explained, a  
4 court's discretion to set monetary bail in an amount a defendant cannot afford is  
5 therefore, and necessarily, limited.<sup>22</sup> This court has recognized the same  
6 constitutional limitations on a court's discretion in setting monetary bail:  
7

8 [T]he right to [pre-trial] release is heavily favored and . . . the  
9 requirement of security for the bond may, in a proper case, be  
10 dispensed with . . . [, f]or there may be other deterrents to jumping  
11 bail[.] . . . Society's interest in pretrial freedom for persons accused of  
12 crimes is strong. Under both the United States and Alaska  
13 Constitutions, excessive bail may not be imposed. Excessive bail has  
14 been held to be that which goes beyond the amount reasonably  
15 necessary to assure the defendant's presence at trial. *Stack v. Boyle*,  
16 342 U.S. 1, 5, 72 S.Ct. 1, 96 L.Ed 3 (1951). The presumption of  
17 innocence, central to our system of criminal justice, also dictates in  
18 favor of pretrial release. As the United States Supreme Court stated in  
19 *Stack v. Boyle, supra*:

20 Unless this right to bail before trial is preserved, the  
21 presumption of innocence, secured only after centuries of  
22 struggle, would lose its meaning.<sup>[23]</sup>

23 Consistent with the Alaska Constitution's guarantee that all criminal defendants are  
24 entitled to pre-trial release on reasonable bail, Alaska's bail statute is meant "to make  
25 sure that defendants are not detained before their trial unless there is good cause  
26 for the detention."<sup>24</sup>  
27

28 <sup>22</sup> *Reeves v. State*, 411 P.2d 212, 216 (Alaska 1966).

<sup>23</sup> *Fesolai v. State*, Bail Order, No. A-10169, at \*2-3 (Alaska App. Apr. 17, 2008) (quoting *Doe v. State*, 487 P.2d 47, 51 (Alaska 1971) (quoting *Stack*, 342 U.S. at 4)).

<sup>24</sup> *Id.* As this court held in *State v. Judson*, changes in the bail statute allowing courts setting a defendant's bail to consider the defendant's potential danger to the public did not "suggest[]" that the underlying purpose of the statute —



1  
2 **2. Alaska Statute 12.30.011 requires a court to impose the least**  
3 **restrictive conditions of release, and it may reconsider**  
4 **conditions previously imposed upon “new information.”**

5 Alaska Statute 12.30.011 provides the statutory framework governing  
6 a defendant’s constitutional right to bail. Under that section, the court is to order a  
7 person released on his own recognizance or upon an unsecured appearance bond  
8 upon certain conditions.<sup>25</sup> Before a court may add any other condition to an  
9 individual’s release, it must find that additional conditions are necessary to  
10 reasonably ensure the person’s appearance or to protect the victim, other persons,  
11 or the community.<sup>26</sup> If the court imposes additional conditions, those conditions must  
12 be “the least restrictive condition or conditions that will reasonably ensure the  
13 person’s appearance and protect the victim, other persons, or the community.”<sup>27</sup>

14  
15 A court sets a person’s conditions of release at his first appearance  
16 before a court.<sup>28</sup> If those conditions prevent the person’s release for more than 48  
17 hours, a person is entitled to review of his conditions.<sup>29</sup> After that first review, a court  
18 may schedule a subsequent review if “the person provides to the court and the  
19

20  
21 protecting the accused from being needlessly detained — has changed.” 45 P.3d  
22 329, 334 (Alaska App. 2002).

23 <sup>25</sup> AS 12.30.011(a) (requiring release be on conditions that individual  
24 obey all court orders and laws; appear in court when ordered; and, if represented,  
maintain contact with lawyer and notify lawyer of change in residence).

25 <sup>26</sup> AS 12.30.011(b).

26 <sup>27</sup> *Id.*

27 <sup>28</sup> AS 12.30.006(a).

28 <sup>29</sup> AS 12.30.006(c).

1  
2 prosecuting authority a written statement that new information not considered at the  
3 previous review will be presented at the hearing."<sup>30</sup> This court has previously  
4 decided cases interpreting the "new information requirement."

5  
6 In *Hanhaz v. State*,<sup>31</sup> this court explained that the constitutional nature  
7 of a defendant's right to pretrial release requires courts to construe the statutory  
8 requirement that he come forward with "new information" narrowly, to ensure greater  
9 defendant access to bail review.<sup>32</sup> *Hanhaz* held that the burden placed on Hanhaz's  
10 family by the restrictions on his ability to leave the home satisfied the "new  
11 information" requirement,<sup>33</sup> and *Ferreira v. State*<sup>34</sup> held the same as to a complaining  
12 witness's desire for contact with the defendant.<sup>35</sup> And in *James v. State*,<sup>36</sup> this court  
13 explained that an "increase in the level of charges could certainly constitute new  
14 information with respect to a defendant's flight risk, given the corresponding increase  
15 in a defendant's potential sentencing exposure."<sup>37</sup> The court also noted that the  
16  
17  
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19 <sup>30</sup> AS 12.30.006(d)(1). "[T]he statement must include a description of the  
20 information and the reason the information was not presented at a previous hearing."  
21 *Id.* The prosecutor must also have 48 hours' written notice before the time set for  
the review hearing. AS 12.30.006(d)(2).

22 <sup>31</sup> Bail Order, No. A-10106 (Alaska App. Jan. 22, 2008).

23 <sup>32</sup> *Id.* at \*2.

24 <sup>33</sup> *Id.*

25 <sup>34</sup> Bail Order, No. A-13523 (Alaska App. Oct. 17, 2019).

26 <sup>35</sup> *Id.* at \*1-2.

27 <sup>36</sup> Bail Order, No. A-13503 (Alaska App. Dec. 11, 2019).

28 <sup>37</sup> *Id.* at \*5-6.

1  
2 indictment could “indicate that the State presented new information to the grand jury  
3 related to the defendant’s conduct – information that might impact a court’s  
4 assessment of the defendant’s dangerousness.”<sup>38</sup>

5  
6 **B. The novel coronavirus constitutes “new information” justifying a  
7 review of the conditions preventing these defendants’ release from  
pretrial custody.**

8 The defendants in this consolidated appeal each sought review of the  
9 conditions of release set in his case. And in each case, the trial court denied release,  
10 concluding that the COVID-19 pandemic did not constitute “new information”  
11 justifying a subsequent bail review hearing.

12  
13 **1. The COVID-19 pandemic presents a great risk to the health of  
detained individuals.**

14 COVID-19 is an extremely dangerous disease. Current estimates of its  
15 fatality rate range from 0.25 percent to 3.0 percent,<sup>39</sup> with some estimates of more  
16 than 5 percent.<sup>40</sup> These fatality rates vary significantly, depending on both  
17 demographic and environmental risk factors.

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20  
21  
22 <sup>38</sup> *Id.* at \*6. The record in James’s case, however, was clear that the judge  
23 reviewing James’s bail conditions “had essentially the same substantive information  
24 about James’s conduct before him that the first judge did.” *Id.* For that reason, this  
court rejected the state’s assertion that there was “new information” justifying a bail  
review. *Id.*

25 <sup>39</sup> See Nick Wilson, et al., Case-Fatality Risk Estimates for COVID-19  
26 Calculated by Using a Lag Time for Fatality, 26(6) Emerging Infectious Diseases  
(June 2020), [https://wwwnc.cdc.gov/eid/article/26/6/20-0320\\_article](https://wwwnc.cdc.gov/eid/article/26/6/20-0320_article).

27 <sup>40</sup> See David Baud, et al., Real estimates of mortality following COVID-19  
28 infection, *The Lancet – Infectious Diseases* (Mar. 12, 2020),  
[https://doi.org/10.1016/S1473-3099\(2\)30195-X](https://doi.org/10.1016/S1473-3099(2)30195-X).

1  
2 The novel coronavirus's fatality rate is higher among the elderly and  
3 those with preexisting health conditions. As a person's age increases, the mortality  
4 rate increases dramatically. Current evidence from China suggests a mortality rate  
5 of approximately 0.2% among people aged 10 to 39 years old; for each additional  
6 decade of life, however, the mortality rate increases – those in their 40s have a 0.4  
7 percent mortality rate; those in their 50s have a 1.3 percent mortality rate; those in  
8 their 60s have a 3.6 percent mortality rate; those in their 70s have a 8 percent  
9 mortality rate, and those over 80 face a 14.8 percent rate.<sup>41</sup> Nearly 38 percent of all  
10 individuals held in Alaska's correctional facilities in 2019 were over the age of 40,<sup>42</sup>  
11 and there are approximately 29 unsentenced individuals in custody that are age 65  
12 or older.<sup>43</sup> The Department of Corrections recently told the Alaska Legislature that  
13 "[s]tudies have found the average 50-year old prisoner's body has deteriorated more  
14 rapidly than that of the average 50-year-old non-offender."<sup>44</sup>

15  
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17  
18 And regardless of a person's age, preexisting health conditions also  
19 increase the risk of death from COVID-19. The fatality rates for individuals with

20  
21  
22 <sup>41</sup> See Vital Surveillances: The Epidemiological Characteristics of an  
23 Outbreak of 2019 Novel Coronavirus Diseases (COVID-19) – China 2020, at Table  
24 1, [weekly.chinacdc.cn/en/article/id/e53946e2-c6c-4-41eq-9a9b-fea8dbla8f51](http://weekly.chinacdc.cn/en/article/id/e53946e2-c6c-4-41eq-9a9b-fea8dbla8f51).

25 <sup>42</sup> See 2019 Offender Profile, Department of Corrections,  
26 <https://doc.alaska.gov/admin/docs/2019Profile.pdf>, at 11. This figure includes both  
27 pretrial and sentenced individuals.

28 <sup>43</sup> Inmate Health & Rehabilitation, Senate Finance Sub-Committee, at 12  
(Mar. 2, 2020), [http://www.akleg.gov/basis/get\\_documents.asp?session=31&docid=60297](http://www.akleg.gov/basis/get_documents.asp?session=31&docid=60297)

<sup>44</sup> *Id.*

1  
2 comorbid conditions are all above 5 percent – cardiovascular disease (13.2 percent);  
3 diabetes (9.2 percent); hypertension (8.4 percent); chronic respiratory disease (8  
4 percent); and cancer (7.6 percent).<sup>45</sup> Two weeks ago, the Alaska Department of  
5 Corrections told the Alaska Legislature that, compared to other Americans, prisoners  
6 are “31 percent more likely to have asthma”; “[t]wice as likely to have high blood  
7 pressure;” “[m]ore than twice as likely to use tobacco,” “55 percent more likely to  
8 have diabetes”; and “90 percent more likely to have a heart attack.”<sup>46</sup> And “[p]hysical  
9 and psychological hardships of prison life tend to compound preexisting  
10 conditions.”<sup>47</sup>

11  
12  
13 **2. Detained individuals cannot take preventative measures to  
14 reduce their risk.**

15 Jails and prisons are not designed to reduce the risk of infectious  
16 disease transmission.<sup>48</sup> “The probability of transmission of potentially pathogenic  
17 organisms is increased by crowding, delays in medical evaluation and treatment,  
18 rationed access to soap, water, and clean laundry, insufficient infection-control  
19

20  
21 <sup>45</sup> See Report of the WHO-China Joint Mission on Coronavirus Disease  
22 2019 (COVID-19), at 12, [https://www.who.int/docs/default-source/coronaviruse/  
who-china-joint-mission-on-covid-19-final-report-pdf](https://www.who.int/docs/default-source/coronaviruse/who-china-joint-mission-on-covid-19-final-report-pdf).

23 <sup>46</sup> Inmate Health & Rehabilitation, *supra* note 43, at 11,  
24 [http://www.akleg.gov/basis/get\\_documents.asp?session=31&docid=60297](http://www.akleg.gov/basis/get_documents.asp?session=31&docid=60297).  
25 Twenty-five to thirty percent of inmates have hypertension, and 22 percent have  
26 hepatitis C. *Id.* at 10.

26 <sup>47</sup> *Id.* at 12.

27 <sup>48</sup> See Joseph A. Bick, *Infection Control in Jails and Prisons*, 45(8)  
28 CLINICAL INFECTIOUS DISEASES, at 1047 (Oct. 15, 2007),  
<https://doi.org/10.1086/521910>.

1  
2 expertise, and prohibitions against the use of proven reduction tools[.]”<sup>49</sup> Alaska’s  
3 correctional facilities are overcrowded.<sup>50</sup> During a two-week period in October 2019,  
4 Fairbanks Correctional Center exceeded its maximum capacity<sup>51</sup> every day, and  
5 Wildwood Pretrial Facility exceeded its maximum capacity on five days<sup>52</sup> and met or  
6 exceeded its general capacity<sup>53</sup> on ten days.<sup>54</sup>  
7

8 The state has recognized the risk COVID-19 presents to its detained  
9 populations. On March 14, it suspended all visitation at Department of Corrections  
10 facilities “to protect Alaskans within these facilities.”<sup>55</sup> But Alaskans in these facilities  
11

12  
13  
14 <sup>49</sup> *Id.* Moreover, “[t]he high prevalence of mental illness among inmates  
15 often complicates appropriate management of contagious diseases.” Prisoners are  
16 “100% to 300% more likely to have a serious mental illness” than the average  
17 American. See *Inmate Health Care*, *supra* note 43, at 11.

18 <sup>50</sup> See ACLU Analyzes Alarming Prison Overcrowding Records from  
19 Alaska Department of Corrections, [https://www.acluak.org/en/news/aclu-analyzes-](https://www.acluak.org/en/news/aclu-analyzes-alarming-prison-overcrowding-records-alaska-department-corrections)  
20 [alarming-prison-overcrowding-records-alaska-department-corrections](https://www.acluak.org/en/news/aclu-analyzes-alarming-prison-overcrowding-records-alaska-department-corrections).

21 <sup>51</sup> Maximum capacity is the number of “[g]eneral beds plus half of  
22 segregation beds including converted gym beds.” General capacity is “[a]ll hard  
23 beds in general population including converted gym beds. See  
24 [https://www.acluak.org/sites/default/files/inmate\\_count\\_-\\_9.2018-10.2019](https://www.acluak.org/sites/default/files/inmate_count_-_9.2018-10.2019).

25 <sup>52</sup> ACLU Analysis, *supra* note 50.

26 <sup>53</sup> General capacity is “[a]ll hard beds in general population including  
27 converted gym beds. See [https://www.acluak.org/sites/default/files/inmate\\_count\\_-\\_9.2018-10.2019](https://www.acluak.org/sites/default/files/inmate_count_-_9.2018-10.2019).

28 <sup>54</sup> See [https://www.acluak.org/sites/default/files/inmate\\_count\\_-\\_9.2018-](https://www.acluak.org/sites/default/files/inmate_count_-_9.2018-10.2019)  
10.2019.

<sup>55</sup> State of Alaska COVID-19 Health Mandate 001, at 1.1 (Mar. 13, 2020),  
[http://dhss.alaska.gov/News/Documents/press/2020/SOA\\_03132020\\_COVID-](http://dhss.alaska.gov/News/Documents/press/2020/SOA_03132020_COVID-19_HealthMandate.pdf)  
19\_HealthMandate.pdf.

1  
2 remain at risk, as they are unable to comply with all recommended precautionary  
3 measures, including social distancing.<sup>56</sup>

4           The Department of Corrections has not provided any public information  
5 regarding its response to the pandemic, including how to it plans to separate  
6 individuals who test positive for the virus from those who have been exposed to the  
7 virus from those who have not been infected or exposed.<sup>57</sup> Indeed, there is no public  
8 information that the department intends to test any individual detained in its facilities.  
9  
10 By contrast, the state has mandated that residential school programs return students  
11 to home communities by March 27<sup>58</sup> and suspended all “long-term services and  
12 supports that occur in congregate settings, including senior centers, adult day  
13 services, and any site-based day habilitation or supported employment activities  
14 where individuals gather.”<sup>59</sup>

15  
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17  
18  
19 <sup>56</sup> “Much of the advice given by the federal Centers for Disease Control  
20 and Prevention – such as staying six feet away from others and routinely disinfecting  
21 surfaces – can be nearly impossible to follow behind bars.” Danielle Ivory, *We Are  
22 Not a Hospital: A Prison Braces for Coronavirus*, N.Y. TIMES (Mar. 17, 2020).

23 <sup>57</sup> By contrast, when the Department of Health and Social Services seeks  
24 a court order to quarantine or isolate an individual, it must ensure that those subject  
25 to quarantine (i.e., those that have or may have been exposed) are separated from  
26 those subject to isolation (i.e., those that are or may be infected). See AS  
27 18.15.395(b)(2) – (4).

28 <sup>58</sup> State of Alaska COVID-19 Mandate 002, at 2.2. (Mar. 16. 2020),  
<https://gov.alaska.gov/wp-content/uploads/sites/2/03.16.20-COVID-19-Health-Mandate-002.pdf>.

<sup>59</sup> State of Alaska COVID-19 Health Alert 007 (Mar. 17, 2020),  
[http://dhss.alaska.gov/News/Documents/press/2020/SOA\\_03172020\\_HealthAlert07\\_CongregateSettings.pdf](http://dhss.alaska.gov/News/Documents/press/2020/SOA_03172020_HealthAlert07_CongregateSettings.pdf).

1  
2 Jurisdictions across the country and throughout the world have  
3 recognized the risk presented to those living in correctional facilities. The Los  
4 Angeles jail system, the nation's largest, has released more than 600 people since  
5 February 28, "allowing many inmates with fewer than 30 days left on their sentences  
6 to be released early."<sup>60</sup> The prosecutor in Miami has "urged the released of all non-  
7 violent felons and those being held on misdemeanors," and the New York Board of  
8 Corrections called for the release of all high-risk inmates.<sup>61</sup> Iran "temporarily freed  
9 more than 70,000 prisoners earlier this month to help curb the epidemic there."<sup>62</sup>

10  
11  
12 **3. Defendants have a limited ability to secure release through  
normal procedures.**

13 As a result of court orders entered to reduce the risk of spreading  
14 COVID-19, pretrial detainees' ability to secure release through the normal course of  
15 a criminal case has been restricted. The Chief Justice of the Alaska Supreme Court  
16 cancelled new jury trials scheduled for the week of March 16 and stated that the  
17 coronavirus pandemic constituted good cause to toll time under Criminal Rule 45.<sup>63</sup>  
18 On March 18, the Third Judicial District's presiding judge prioritized hearings and  
19 gave individual judges the discretion to determine which change of plea and  
20  
21  
22  
23  
24

25 <sup>60</sup> The Associated Press, *Get Out of Jail? Inmates Fearful of Virus Argue  
for Release*, N.Y. Times (Mar. 18, 2020).

26 <sup>61</sup> *Id.*

27 <sup>62</sup> Ivory, *supra* note 56.

28 <sup>63</sup> Special Order of the Chief Justice No. 8130 (Mar. 15, 2020).



1  
2 sentencing hearings should be held.<sup>64</sup> And the Alaska Supreme Court has indicated  
3 it may further relax the rules governing criminal procedure on March 19.<sup>65</sup> These  
4 changes, made in response to the pandemic and in line with the advice of public  
5 health officials, have restricted the ability of criminal defendants to avail themselves  
6 of release through the criminal justice system.  
7

8           Precautions being taken by individuals outside the court system have  
9 also restricted the ability to resolve cases. With social distancing, self-quarantine,  
10 and self-isolation orders, a defendant's ability to investigate his case is reduced, and  
11 this reduction is especially pronounced where that investigation requires travel. The  
12 suspension of in-person visitation in correctional facilities includes legal visits, which  
13 prevents counsel from reviewing discovery with her client. Similarly, by conducting  
14 hearings telephonically, defendants are no longer being transported to court where  
15 they will see their lawyer, which further compromises the attorney-client relationship.  
16 With limited secure telephone lines and the restriction on in-person visitation  
17 affecting every criminal defense lawyer in the state, lawyers have reduced  
18 opportunities to communicate with clients regarding their cases, including to  
19 communicate offers to resolve a case short of trial.  
20  
21

22           **4. Given the public health risk presented by COVID-19 and given**  
23 **the suspension of normal procedure in criminal cases, the**

24           <sup>64</sup> Presiding Judge Order No. 847, Third Judicial District (Mar. 17, 2020).  
25 The Fourth Judicial District has not entered a similar order, but it has authorized  
26 telephonic participation at court hearings "unless otherwise ordered." Presiding  
27 Judge Administrative Order, Fourth Judicial District (Mar. 17, 2020).

28           <sup>65</sup> See Special Order of the Chief Justice No. 8129 (Mar. 13, 2020) ("On  
March 19, the Alaska Supreme Court is scheduled to consider an emergency order  
relaxing court rules in response to this outbreak.").

1  
2 **pandemic constituted “new information” justifying a review of**  
3 **the bail conditions set in each case.**

4 A defendant’s right to pre-trial release is constitutional; the statutory  
5 requirement that a defendant come forward with “new information” before obtaining  
6 a bail review hearing “must be construed narrowly.”<sup>66</sup> The trial courts in these cases  
7 erred in construing the requirement broadly and denying the requested bail hearings  
8 despite changed circumstances.

9  
10 The COVID-19 pandemic represents new information that was not  
11 considered when conditions of release were previously set in each case. When  
12 those conditions were set, the court determined that they were the least restrictive  
13 necessary to ensure appearance and protect public safety. But with the increased  
14 risk a defendant’s continued detention presents to his health and the health of those  
15 detainees around him and with the reduced ability to resolve criminal cases, criminal  
16 defendants are entitled to review of their release conditions to ensure they continue  
17 to be the least restrictive to ensure appearance and protect public safety, both inside  
18 and outside correctional facilities.

19  
20 In each case here, the trial courts denied the defendants the opportunity  
21 for review of the conditions preventing their release in light of the impact the  
22 coronavirus pandemic. [Att. D, I, O] And in two cases, the trial courts denied this  
23 request even though the defendants submitted new information beyond the  
24 pandemic.  
25  
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28 <sup>66</sup> *Hanhaz v. State*, Bail Order, No. A-10106, at \*2 (Alaska App. Jan. 22, 2008).

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Karr stated that his potential sentence exposure had decreased as a result of his plea to a lesser included offense. [Att. D] In *James*,<sup>67</sup> this court suggested that indictment on a higher offense could constitute new information because of the increased flight risk resulting from the increased potential sentence;<sup>68</sup> the converse must also be true, and Karr's plea to a lesser offense constitutes new information justifying a bail review notwithstanding the coronavirus pandemic.

Nashoanak stated that the complaining witness in his case contacted his lawyer and requested contact with Nashoanak. [Att. O] In *Ferreira*,<sup>69</sup> this court stated that a complaining witness's request for contact constituted new information justifying a bail review hearing;<sup>70</sup> Nashoanak is entitled to a bail review of the condition preventing contact irrespective of the pandemic.

**CONCLUSION**

The defendants ask this court to reverse the trial court orders denying a bail review hearing for failure to present new information.

ALASKA PUBLIC DEFENDER AGENCY

DATE 3/19/20

Kelly Taylor  
 RENEE MCFARLAND (0202003)  
 ASSISTANT PUBLIC DEFENDER

<sup>67</sup> *James v. State*, Bail Order, No. A-13503 (Alaska App. Dec. 19, 2019).  
<sup>68</sup> *Id.* at \*5-6.  
<sup>69</sup> *Ferreira v. State*, Bail Order, No. A-13523 (Alaska App. Oct. 17, 2019).  
<sup>70</sup> *Id.* at \*1-2.

Agency No. AK19019125  
Search Warrant(s): \_\_\_\_\_

IN THE DISTRICT/SUPERIOR COURT FOR THE STATE OF ALASKA  
AT FAIRBANKS

COMPLAINT

STATE OF ALASKA vs. <u>KARR, JAMES THOMAS</u>	Plaintiff Defendant
Date of Birth: <u>09/14/1946</u>	APSIN: <u>AK0227787</u>
ATN: <u>116342262</u>	DV Related: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Oper Lic No: <u>0227787 AK</u>	CDL? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Address: <u>6959 NO NAME LANE, TWO RIVERS AK USA</u>	

Case No: 4FA-19-872CR

FILED in the Trial Courts  
State of Alaska Fourth District

MAR 24 2019

By \_\_\_\_\_ Deputy

CYN: <u>001</u>	Offense: <u>AS11.41.100(a)(1)(A)</u>	Class: <u>Unclassified Felony</u> <i>CR 1</i>
<u>Murder in the first degree</u> Class A Felony		
<input checked="" type="checkbox"/> Attempt - AS11.31.00 <input type="checkbox"/> Solicitation - AS11.31.110 <input type="checkbox"/> Conspiracy - AS11.31.120 <input type="checkbox"/> Gang-Related - AS12.55.137		
Traffic Offense: <input type="checkbox"/> Highway Work Zone <input type="checkbox"/> Traffic Safety Corridor		
Commercial Vehicle? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No    Type: <input type="checkbox"/> >25,000lbs. <input type="checkbox"/> >15 passengers <input type="checkbox"/> Hazardous Materials		

THE COMPLAINANT STATES that on or about 03/23/2019, at or near TWO RIVERS, in the Fourth Judicial District, State of Alaska, the above-named Defendant did unlawfully commit the offense of Murder in the first degree when he/she:

A person commits the crime of murder in the first degree if with intent to cause the death of another person, the person causes the death of any person; or \*AS11.41.100(a)(1)(A)

VRA CERTIFICATION:

I certify that this document and its attachments do not contain (1) the name of a victim of a sexual offense listed in AS 12.61.140 or (2) a residence or business address or telephone number of a victim of or witness to any offense unless it is an address used to identify the place of the crime or it is an address or telephone number in a transcript of a court proceeding and disclosure of the information was ordered by the court.

I certify under penalty of perjury that the foregoing is true.

03/23/2019  
Date

[Signature]  
Complainant's Signature  
Temper Coby Sutton  
Type or Print Name and Title

**D.A.**

COPY

Agency No. AK19019125

Search Warrant(s): \_\_\_\_\_

IN THE DISTRICT/SUPERIOR COURT FOR THE STATE OF ALASKA  
AT FAIRBANKS

**COMPLAINT**

STATE OF ALASKA		Plaintiff
vs.		
<u>KARR, JAMES THOMAS</u>		Defendant
Date of Birth: <u>09/14/1946</u>	APVIN: <u>AK0227787</u>	
ATTN: <u>116942262</u>	DV Related: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Oper Lic No: <u>0227787 AK</u>	CDL? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Address: <u>6959 NO NAME LANE, TWO RIVERS AK USA</u>		

Case No: \_\_\_\_\_

FILED in the Trial Courts  
State of Alaska Fourth District

**MAR 24 2019**

By \_\_\_\_\_ Deputy

CTN: <u>002</u>	Offense: <u>AS11.61.210(a)(1)</u>	Class: <u>Class A Misdemeanor</u>
<u>Misconduct involving weapons in the fourth degree</u>		
<input type="checkbox"/> Attempt - AS11.31.00 <input type="checkbox"/> Solicitation - AS11.31.110 <input type="checkbox"/> Conspiracy - AS11.31.120 <input type="checkbox"/> Gang-Related - AS12.55.137		
Traffic Offense: <input type="checkbox"/> Highway Work Zone <input type="checkbox"/> Traffic Safety Corridor		
Commercial Vehicle? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No   Type: <input type="checkbox"/> >26,000lbs. <input type="checkbox"/> >15 passengers <input type="checkbox"/> Hazardous Materials		

THE COMPLAINANT STATES that on or about 03/23/2019, at or near TWO RIVERS, in the Fourth Judicial District, State of Alaska, the above-named Defendant did unlawfully commit the offense of Misconduct involving weapons in the fourth degree when he/she:

possessed on him/her self, or in the interior of a vehicle in which he/she was present, a firearm when his/her physical or mental condition was impaired by intoxicating liquor or a controlled substance; \*AS11.61.210(a)(1)

**VRA CERTIFICATION:**

I certify that this document and its attachments do not contain (1) the name of a victim of a sexual offense listed in AS 12.61.140 or (2) a residence or business address or telephone number of a victim of or witness to any offense unless it is an address used to identify the place of the crime or it is an address or telephone number in a transcript of a court proceeding and disclosure of the information was ordered by the court.

I certify under penalty of perjury that the foregoing is true.

03/23/2019  
Date

**D.A.**

\_\_\_\_\_  
Complainant's Signature  
Trooper Coby Sutton  
Type or Print Name and Title

IN THE DISTRICT/SUPERIOR COURT FOR THE STATE OF ALASKA  
 AT Fairbanks

**AFFIDAVIT by Police Officer**  
**In Support of Complaint**

Related Search Warrant(s): \_\_\_\_\_

State of Alaska,		Plaintiff,	
vs.		Defendant 1 of 1.	
James T. Karr			
Date of Birth: 09/14/1946	APVIN: AK0227787		
Operator License Number: 0227787			
State: <input checked="" type="checkbox"/> AK <input type="checkbox"/> _____	CDL? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Mailing Address: 6959 No Name Lane			
City: Two Rivers	State: AK	ZIP: 99716	

FILED in the Trial Courts  
 State of Alaska Fourth District

**MAR 24 2019**

By \_\_\_\_\_ Deputy

RCASE NO. \_\_\_\_\_

Defendant(s)	ATN	CTN(s)	Date Offense	Offense Location
James T. Karr	116342262	001-002	03/23/2019	Two Rivers

I, Trooper C. Sutton

attest to the following and state:

On 03/23/2019 at approximately 2101 hours Agnes Karr called 911 reporting her husband James Karr is intoxicated and mad. While on the phone with AST James pointed a gun at her and threatened to kill her. She reported her son Norman Karr took the gun from James.

I responded to the residence. When I arrived, I contacted Norman outside of the residence I instructed him to return to the residence. I contacted James near the back of the garage and gave him verbal commands to stay where he was and place his hands above his head. James ignored my verbal commands and walked towards me with his hands sometimes above his head. James stumbled as he walked. I detained James. I read James the Miranda warning and he told me he did not want to speak with me. I noticed a strong odor of alcohol coming from his person. I walked James over to my patrol car and had to hold him up multiple times to prevent him from falling to the ground.

Trooper Cottle arrived on scene and we contacted Norman on the porch. Trooper Cottle interviewed Norman and relayed the following to me. Norman heard something from the kitchen and he took the firearm from his dad. Norman said he was not afraid anything bad was going to happen.

I interviewed Agnes outside the residence and she relayed the following to me in a recorded

conversation. Agnes and her son were in town and when they returned home she saw James chopping wood. James had fallen down, and Agnes went to help him up. After James got up Agnes gave him some food inside the residence and James got mad. Agnes did not know why James got mad, but he started to throw things at her. James threw food, mail and other items at her and told her he was going to kill her. Agnes went into the kitchen. She was on the phone with AST when James followed her into the kitchen and pulled a gun out from behind his back. James pointed the gun directly at her head. Agnes thought James was going to kill her when he pointed the gun at her. Agnes reached up and grabbed the gun pushing up. James pulled the trigger and the hammer released. Agnes' finger got in the way of the hammer preventing the firearm from firing. Agnes received an injury on her finger from the hammer pinching her. Norman came into the kitchen and took the gun from James. James then left the residence and went to the garage where he stayed until AST arrived.

I observed a fresh red laceration on Agnes' left middle finger. The laceration had fresh blood and ran horizontal to her finger. Firearm James had was a Ruger .22 caliber "single-six" and was fully loaded with six .22 magnum cartridges.

James did commit the crime of Attempted Murder in the First Degree when with intent to cause the death of Agnes, James attempted to cause her death by pulling the trigger of the firearm.

James did commit the crime of Misconduct involving a weapon in the 4<sup>th</sup> Degree when he possessed on himself a firearm when his physical and mental condition was impaired by intoxicating liquor.

James was transported to FCC where he was remanded for Attempted Murder 1 and Misconduct Involving a Weapon in the 4<sup>th</sup>.

VRA CERTIFICATION. I certify that this document and its attachments do not contain (1) the name of a victim of a sexual offense listed in AS 12.61.140 or (2) a residence or business address or telephone number of a victim of or witness to any crime unless it is an address used to identify the place of the crime or it is an address or telephone number in a transcript of a court proceeding and disclosure of the information was ordered by the court.

05/24/2019  
Date

[Signature]  
Complainant's Signature

**D.A.**

Trooper C. Sutton  
Type or Print Name and Title

Subscribed and sworn to or affirmed before me at Fairbanks, Alaska, on 5/24/19.

(SEAL)



[Signature]  
Notary Public or other person authorized to administer oaths.  
My commission expires: w/office

**IN THE DISTRICT / SUPERIOR COURT FOR THE STATE OF ALASKA AT FAIRBANKS  
ORDER AND CONDITIONS OF RELEASE**

Case Number	Plaintiff	Defendant	DOB	ARSIN	DV	VEA
4FA-19-00872CR	State of Alaska	James T Karr	09/14/1946	0227787	Y	N

**CURRENT CHARGES**

ATN	DOV	CFN	Description
116342262	03/23/2019	001	AS11.41.100(a)(1)(A): Murder 1-Intent To Cause Death
116342262	03/23/2019	002	AS11.61.210(a)(1): Misc/Weapons 4- Possess While Intox

**INSTRUCTIONS TO CORRECTIONS/JUDICIAL SERVICES**

The defendant may request admission to any jail without further order of the court. The jail shall admit the defendant and schedule the defendant for a court appearance.

**COUNSEL**

The PUBLIC DEFENDER Agency is appointed to represent the defendant. Contact them at: 529 5th Ave Suite 1, Fairbanks, AK 99701 or call them at(907)458-6800.

**CONDITIONS OF RELEASE**

IT IS ORDERED that the defendant be released on the condition that the defendant promises to appear at all scheduled hearings as required.

The court finds that additional conditions are necessary to reasonably assure the defendant's appearance and to protect the victims, or other persons, and the community. Therefore, IT IS FURTHER ORDERED that the following conditions are imposed:

**RAIL CONDITIONS**

**PERFORMANCE BOND.** Defendant will execute a performance bond in the amount of \$100,000 to assure the defendant's compliance with the conditions of release.

**PRETRIAL ENFORCEMENT SUPERVISION.** The defendant is ordered to supervision by a Pretrial Enforcement Division (PED) officer during the pretrial period as provided by AS 33.07.

Electronic monitoring ordered. Defendant to remain in custody until monitor is attached.

Curfew, substance monitoring, and location restrictions as ordered below.

GPS Monitoring, Alcohol Monitoring

The court finds by clear and convincing evidence that own recognizance release, or unsecured bonds, or nonmonetary conditions will not ensure the defendant's appearance, or the safety of the victim, other persons, or the community.

**OTHER CONDITIONS OF RELEASE**

1. The defendant shall obey all court orders and all federal, state, and local laws. The defendant shall obey all court orders and appear in court when ordered.
2. If appointed a pretrial enforcement (PED) officer, the defendant shall maintain contact with the PED officer and follow all of the PED officer's instructions.
3. If represented, the defendant shall maintain contact with his or her attorney, and keep the attorney advised of all current telephone numbers.



4. The defendant shall notify his or her attorney or, if not represented by an attorney, notify the PED officer within 24 hours after moving from one residence to another. The attorney will notify the court and prosecuting authority.
5. The defendant shall notify his or her attorney and PED officer within two business days after changing employment. The attorney will notify the court and prosecuting authority.
6. The defendant shall not consume alcohol.
7. The defendant shall not possess alcohol on his or her person, in his or her residence, or in any vehicle or other property over which he or she has control.
8. The defendant shall not enter or remain in any bars or liquor stores.
9. The defendant shall not be at any place where anyone is consuming alcohol.
10. The defendant may enter restaurants, but may not sit on the bar side of the restaurant or have alcohol at the table.
11. The defendant shall be tested for alcohol or controlled substances as requested by the PED officer.
12. The defendant shall submit to a breath test when requested by a peace officer.
13. The defendant shall submit to a warrantless search of his or her person, personal property, residence, or any vehicle or other property over which he or she has control, for the presence of alcohol, by a peace officer who has reasonable suspicion that the defendant is violating the conditions of release by possessing alcohol.
14. The defendant shall not possess a deadly weapon on his or her person, in his or her residence, or in his or her vehicle.
15. The defendant shall submit to a warrantless search of his or her person, personal property, residence, or any vehicle or other property over which he or she has control, for the presence of firearms or prohibited weapons, by a peace officer who has reasonable suspicion that the defendant is violating the conditions of release by possessing firearms or prohibited weapons.

The court finds that the defendant is charged with a crime involving domestic violence and/or stalking. To protect the alleged victim, household members, other persons, and the community, and to ensure the defendant's appearance in court, the following additional conditions are ordered:

16. The defendant shall not threaten to commit or commit domestic violence, stalking, harassment, or sexual assault.
17. The defendant shall not contact, telephone, text, email, or otherwise communicate directly or indirectly with the alleged victim. This includes: Agnes Karr.  
Exception: Contact through an attorney is allowed.
18. The defendant shall not contact, telephone, text, email, or otherwise communicate directly or indirectly with the following persons: Norman Karr.  
Exception: Contact through an attorney is allowed.
19. The defendant shall not enter, follow, or interfere with the operation of any vehicle occupied by or in the possession of: Agnes Karr.
20. The defendant shall stay at least 1000 feet away from the residence of: Agnes Karr.
21. The defendant shall stay at least 1000 feet away from the place of employment of: Agnes Karr.

**FUTURE COURT APPEARANCE(S)**

DATE	TIME	COURTROOM	HEARING TYPE
04/03/2019	3:15 PM	Courtroom 102, Fairbanks Courthouse	Preliminary Hearing

March 24, 2019  
Effective Date of Order



A handwritten signature in black ink, appearing to read "Melony P. Lockwood".

Magistrate Judge Melony P. Lockwood

I certify that on 03/24/2019 a copy of this order was distributed to:

- |   |   |   |   |                                   |                              |                                |                               |
|---|---|---|---|-----------------------------------|------------------------------|--------------------------------|-------------------------------|
| <input type="checkbox"/> Def            | <input type="checkbox"/> TPC            |   |   |                                   |                              |                                |                               |
| <input checked="" type="checkbox"/> FCC | <input checked="" type="checkbox"/> DAO | <input checked="" type="checkbox"/> PD  | <input checked="" type="checkbox"/> PED | <input type="checkbox"/> DOC Prob | <input type="checkbox"/> OPA | <input type="checkbox"/> OCC   | <input type="checkbox"/> OSPA |
| <input type="checkbox"/> COF            | <input type="checkbox"/> JS             | <input checked="" type="checkbox"/> AST | <input type="checkbox"/> FPD            | <input type="checkbox"/> NPPD     | <input type="checkbox"/> FAP | <input type="checkbox"/> UAFFD | <input type="checkbox"/> FCRJ |
| <input type="checkbox"/> FASAP          | <input type="checkbox"/> LEAP           |   |   |                                   |                              |                                |                               |
| <input type="checkbox"/> Other: _____   |   |   |   |                                   |                              |                                |                               |

Clerk: LS

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA AT FAIRBANKS

MAR 16 2020

State of Alaska

vs. Defendant: James T Karr

Date of Birth: 09/14/1946

Clerk of the Trial Courts

Case No(s): 4FA-19-00872CR

**APPLICATION FOR SECOND OR SUBSEQUENT BAIL REVIEW HEARING**

This is the defendant's application for a second or subsequent bail review hearing. The last bail review hearing was held on (date) May 31, 2019.

1. I request a hearing date for this application on: Next available in the afternoon.
2. This case alleges that there is a crime victim:  Yes  No
3. I notified the prosecutor of this application on (date) 3/16/20 at 10:40  am  pm  
I notified the prosecutor by:  mail  fax  in person  phone  email.
4.  There is a surety who posted my bond (name) \_\_\_\_\_  
I gave the surety written notice of my application on (date) \_\_\_\_\_.
5.  Defendant is in custody at (location) FCC, and has been in custody in this case since (date) 2019.
6. In this case, I am:  representing myself  an attorney representing the defendant.
7. I request a bail review hearing in  District Court  Superior Court.
8. I have new information not considered at previous bail review hearings.  
 I am unable to pay bail. I have made the following good faith efforts to post bail (Note: you may receive only one bail review hearing for inability to pay):

I have other new information not considered: Mr. Karr has pled to assault in the second degree/the case is resolved. He is not facing a possible attempted murder sentence. Also, Mr. Karr has cancer, is elderly, and has a weakened immune system. Being incarcerated given the current medical crisis poses a huge risk to his life.

This new information was not presented at previous hearings because:  
Times have changed.

9. Relief requested:

- Bail modification to: \$500
- Delete third party custodian requirement.
- New proposed third party custodian: Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_ DOB: \_\_\_\_\_ AK DL/ID#: \_\_\_\_\_
- Custody arrangement:  24 hour  Other: \_\_\_\_\_
- Monitoring by: PED house arrest/EM with exceptions for medical, appointments with lawyer & grocery store. Bail release contingent on PED approved housing.
- Other: \_\_\_\_\_

10.  I spoke to prosecutor (name) \_\_\_\_\_ who waives:  
 new information  48 hours' notice  waiting 7 days between hearings.
11.  I spoke to the surety (name) \_\_\_\_\_ who agrees to waive the requirement of giving 48 hours' notice of my request for a review hearing.

03/16/2020

Date

(907) 458-6791

Phone Number of Applicant

mary.bullis@alaska.gov

Email of Applicant

Diana Wildland 1712096  
Signature of Applicant (Defendant or Attorney)

Marv K. Bullis

Printed Name of Applicant

#1311108

Attorney Bar Number

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA AT FAIRBANKS

State of Alaska

vs. Defendant: James T Karr

Date of Birth: 09/14/1946

Case No(s): 4FA-19-00872CR

**\*\*Leave This Portion Blank for the Court to Fill Out\*\***

**NOTICE REGARDING REQUEST FOR BAIL REVIEW HEARING**

The defendant applied for review of the imposed conditions of release. This application is the applicant's second or subsequent.

**A hearing on this application:**

Is ordered.

The hearing will be held as follows:

Date: \_\_\_\_\_ Time: \_\_\_\_\_ Courtroom: \_\_\_\_\_

Location: \_\_\_\_\_

A Notice of Hearing will be sent to you at a later date.

is denied for the following reasons:

Current medical crisis is not new information  
under the statute

3/17/2020  
Date

[Signature]  
Judicial Officer/Clerk<sup>1</sup>  
THOMAS E. TEMPLE  
Type or Print Name

I certify that on 3/17/20  
a copy of this order was sent to:

PD  DA  
 Deft.

Clerk: JT

TO CERTIFY THAT A COPY  
OF THE FOREGOING IS BEING  
FAXED/  E-MAILED  
MAILED/ \_\_\_\_\_ HAND DELIVERED  
TO THE FOLLOWING ATTORNEY(S)  
OR PARTIES OF RECORD: DAO  
SPU 3/16/20  
DATE

<sup>1</sup> If request for hearing is denied, must be signed by a Judicial Officer.

1 IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
2 FOURTH JUDICIAL DISTRICT AT FAIRBANKS

3 STATE OF ALASKA,

4 Plaintiff,

5 vs.

6  
7 DARRELL LEROY SAM, II,  
8 DOB: 07/27/1998  
9 APSIN ID: 7799284  
10 DMV NO.: 7637319 AK  
11 ATN: 113993199  
12 RES: 00 AIRPORT ROAD  
13 HUSLIA, AK 99746

14 Defendant.

FILED in the Trial Courts  
State of Alaska Fourth District

AUG 22 2018

By \_\_\_\_\_ Deputy

15 Case No. 4GA-18-00034CR (Darrell Leroy Sam, II)

16 **INDICTMENT**

17 I certify this document and its attachments do not contain the (1) name of a victim of a sexual offense listed in AS 12.61.140 or (2) residence or business address or telephone number of a victim of or witness to any offense unless it is an address identifying the place of a crime or an address or telephone number in a transcript of a court proceeding and disclosure of the information was ordered by the court.

18 The following counts charge a crime involving DOMESTIC VIOLENCE as defined in AS 18.66.990: No

19 Count I - AS 11.41.434(a)(1)  
20 Sexual Abuse Of A Minor In The First Degree  
21 Darrell Leroy Sam II - 001

22 Count II - AS AS11.31.100/11.41.434(a)(1)  
23 Attempted Attempted Sexual Abuse Of A Minor In The First Degree  
24 Darrell Leroy Sam II - 002

25 Count III - AS 11.46.300(a)(1)  
26 Burglary In The First Degree  
27 Darrell Leroy Sam II - 003

THE GRAND JURY CHARGES:

District Attorney, State of Alaska  
510 2nd Ave Ste 200 Fairbanks, AK 99701  
Phone: (907) 451-5970 Fax: (907) 451-5996  
Email: fairbanksdao@alaska.gov

COUNT I:

1 That On or about December 2016, at or near Huslia, in the Fourth Judicial  
2 District, State of Alaska, DARRELL LEROY SAM II being 16 years of age or older,  
3 engaged in sexual penetration, with M.V. (DOB:5/25/2004), a person who was under 13  
4 years of age.  
5

6 All of which is a an unclassified felony offense being contrary to and in violation  
7 of AS 11.41.434(a)(1) and against the peace and dignity of the State of Alaska.  
8

COUNT II:

9 That On or about December 2016, at or near Huslia, in the Fourth Judicial  
10 District, State of Alaska, DARRELL LEROY SAM II being 16 years of age or older with  
11 the intent to commit the following crime took a substantial step towards, engaging in  
12 sexual penetration, with M.V. (DOB: 5/25/2004), a person who was under 13 years of  
13 age.  
14

15 All of which is an unclassified felony offense being contrary to and in violation  
16 of AS 11.41.434(a)(1) and against the peace and dignity of the State of Alaska.  
17

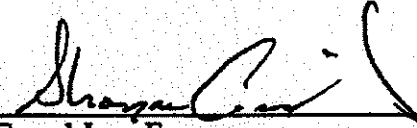
COUNT III:

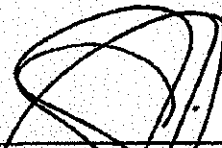
18 That On or about December 2016, at or near Huslia, in the Fourth Judicial  
19 District, State of Alaska, DARRELL LEROY SAM II entered or remained unlawfully in  
20 a dwelling with intent to commit the crime of Sexual Abuse of a Minor in the dwelling.  
21

22 All of which is a class B felony offense being contrary to and in violation of  
23 11.46.300(a)(1) and against the peace and dignity of the State of Alaska.  
24  
25  
26  
27

1 DATED this 22 day of August, 2018 at Fairbanks, Alaska.

2 A TRUE BILL

3  
4   
Grand Jury Foreperson

  
Sara E. Simpson  
Assistant District Attorney  
Alaska Bar No. 0305030

5  
6  
7  
8 WITNESSES EXAMINED BEFORE THE GRAND JURY:

9 MU

10 AL

11 Laurie Mancuman

12 Warner Dent Sr.

13 Trooper James Lester

14  
15  
16  
17  
18  
19 BAIL SET AT \$25,000 Performance + CAPTS

20 DATED 8/22/18

21 MacDonald

22 JUDGE

23 ACCERTED FOR FILING 8/22/18

24 Desanna Berino

25 DEPUTY CLERK

**IN THE DISTRICT / SUPERIOR COURT FOR THE STATE OF ALASKA AT FAIRBANKS  
ORDER AND CONDITIONS OF RELEASE**

Case Number	Plaintiff	Defendant	DOB	ARSIN	DV	VRA
4GA-18-00034CR	State of Alaska	Darrell Leroy Sam III	07/27/1998	7799284	N	Y
Corrected:		Darrell Leroy Sam II				

**CURRENT CHARGES**

AIN	DOV	GTN	Description
113993199	12/01/2016	001	AS11.41.434(a)(1): Sex Abuse Minor 1- Penetrate Vic Undr 13
113993199	12/01/2016	002	Attempt - AS11.41.434(a)(1): Sex Abuse Minor 1- Penetrate Vic Undr 13
113993199	12/01/2016	003	AS11.46.300(a)(1): Burglary 1- In A Dwelling

**INSTRUCTIONS TO CORRECTIONS/JUDICIAL SERVICES**

The defendant may request admission to any jail without further order of the court. The jail shall admit the defendant and schedule the defendant for a court appearance.

**COUNSEL**

The Public Defender Agency is appointed to represent the defendant.

Contact the appointed attorney at the following address and phone:  
529 5th Ave Suite 1 Fairbanks, AK 99701  
(907)-458-6800

**CONDITIONS OF RELEASE**

IT IS ORDERED that the defendant be released on the condition that the defendant promises to appear at all scheduled hearings as required.

The court finds that additional conditions are necessary to reasonably assure the defendant's appearance and to protect the victims, or other persons, and the community. Therefore, IT IS FURTHER ORDERED that the following conditions are imposed:

**BAIL CONDITIONS**

**PERFORMANCE BOND.** Defendant will execute a performance bond in the amount of \$25,000 to assure the defendant's compliance with the conditions of release.

**PRETRIAL ENFORCEMENT SUPERVISION.** The defendant is ordered to supervision by a Pretrial Enforcement Division (PED) officer during the pretrial period as provided by AS 33.07.

Electronic monitoring ordered. Defendant to remain in custody until monitor is attached.  
Curfew, substance monitoring, and location restrictions as ordered below.  
GPS Monitoring

Defendant is not permitted to return to Huslia.

**OTHER CONDITIONS OF RELEASE**



1. The defendant shall obey all court orders and all federal, state, and local laws. The defendant shall obey all court orders and appear in court when ordered.
2. If appointed a pretrial enforcement (PED) officer, the defendant shall maintain contact with the PED officer and follow all of the PED officer's instructions.
3. If represented, the defendant shall maintain contact with his or her attorney, and keep the attorney advised of all current telephone numbers.
4. The defendant shall notify his or her attorney or, if not represented by an attorney, notify the PED officer within 24 hours after moving from one residence to another. The attorney will notify the court and prosecuting authority.
5. The defendant shall notify his or her attorney and PED officer within two business days after changing employment. The attorney will notify the court and prosecuting authority.
6. The defendant shall not associate with or contact, directly or indirectly, any alleged victim, witness, or co-defendant.

Exception: Contact through an attorney is allowed.

**FUTURE COURT APPEARANCE(S)**

DATE	TIME	COURTROOM	HEARING TYPE
10/11/2018	02:00 p.m.	Courtroom 402, Fairbanks Courthouse	Arraignment

October 4, 2018  
Effective Date of Order



*Jeffrey D. May*  
Magistrate Judge Jeffrey D. May

I certify that on 10/04/2018 a copy of this order was distributed to:

- |   |   |  |   |                                   |                              |                                 |                               |
|---|---|--|---|-----------------------------------|------------------------------|---------------------------------|-------------------------------|
| <input type="checkbox"/> Def            | <input type="checkbox"/> TPC            | <input checked="" type="checkbox"/> PD | <input checked="" type="checkbox"/> PED | <input type="checkbox"/> DOC Prob | <input type="checkbox"/> OPA | <input type="checkbox"/> OCC    | <input type="checkbox"/> OSPA |
| <input checked="" type="checkbox"/> FCC | <input checked="" type="checkbox"/> DAO | <input type="checkbox"/> AST           | <input type="checkbox"/> FPD            | <input type="checkbox"/> NPPD     | <input type="checkbox"/> FAP | <input type="checkbox"/> UAFFPD | <input type="checkbox"/> FCRJ |
| <input type="checkbox"/> COF            | <input type="checkbox"/> JS             |  |   |                                   |                              |                                 |                               |
| <input type="checkbox"/> FASAP          | <input type="checkbox"/> LEAP           |  |   |                                   |                              |                                 |                               |
| <input type="checkbox"/> Other: _____   |   |  |   |                                   |                              |                                 |                               |

Clerk: VG

**IN THE DISTRICT / SUPERIOR COURT FOR THE STATE OF ALASKA AT FAIRBANKS  
ORDER AND CONDITIONS OF RELEASE**

Case Number	Plaintiff	Defendant	DOB	APSIN #	DV	VRA
4GA-18-00034CR	State of Alaska	Darrell Sam II	07/27/1998	7799284	N	Y

**CURRENT CHARGES**

ATN	DOV	CTN	Description
113993199	12/01/2016	001	AS11.41.434(a)(1): Sex Abuse Minor 1- Penetrate Vic Undr 13
113993199	12/01/2016	002	Attempt - AS11.41.434(a)(1): Sex Abuse Minor 1- Penetrate Vic Undr 13
113993199	12/01/2016	003	AS11.46.300(a)(1): Burglary 1- In A Dwelling

**INSTRUCTIONS TO CORRECTIONS/JUDICIAL SERVICES**

The defendant may request admission to any jail without further order of the court. The jail shall admit the defendant and schedule the defendant for a court appearance.

**COUNSEL**

The Public Defender Agency is appointed to represent the defendant.

Contact the appointed attorney at the following address and phone:  
529 5th Ave Suite 1 Fairbanks, AK 99701  
(907)-458-6800

**CONDITIONS OF RELEASE**

IT IS ORDERED that the defendant be released on the condition that the defendant promises to appear at all scheduled hearings as required.

The court finds that additional conditions are necessary to reasonably assure the defendant's appearance and to protect the victims, or other persons, and the community. Therefore, IT IS FURTHER ORDERED that the following conditions are imposed:

**BAIL CONDITIONS**

**PERFORMANCE BOND.** Defendant will execute a performance bond in the amount of \$10,000 to assure the defendant's compliance with the conditions of release.

The defendant may be released with a posting as follows: Defendant may not be released before Friday 10/26/2018.

The defendant may be released only to a court-approved third party custodian.

**PRETRIAL ENFORCEMENT SUPERVISION.** The defendant is ordered to supervision by a Pretrial Enforcement Division (PED) officer during the pretrial period as provided by AS 33.07.

Electronic monitoring ordered. Defendant to remain in custody until monitor is attached.

Defendant is not permitted to return to Huslia.

**OTHER CONDITIONS OF RELEASE**

1. The defendant shall obey all court orders and all federal, state, and local laws. The defendant shall obey all court orders and appear in court when ordered.
2. If appointed a pretrial enforcement (PED) officer, the defendant shall maintain contact with the PED officer and follow all of the PED officer's instructions.
3. If represented, the defendant shall maintain contact with his or her attorney, and keep the attorney advised of all current telephone numbers.
4. The defendant shall notify his or her attorney or, if not represented by an attorney, notify the PED officer within 24 hours after moving from one residence to another. The attorney will notify the court and prosecuting authority.
5. The defendant shall notify his or her attorney and PED officer within two business days after changing employment. The attorney will notify the court and prosecuting authority.
6. The defendant shall not associate with or contact, directly or indirectly, any alleged victim, witness, or co-defendant.

Exception: Contact through an attorney is allowed.

7. **THIRD PARTY CUSTODIAN.** The court finds that Pretrial Enforcement (PED) supervision under AS 33.07 is not available in the defendant's location; and no secured appearance or secured performance bond has been ordered; and no other conditions of release or combination of conditions can reasonably ensure the defendant's appearance and the safety of the victim, other persons, and the community. The court has ordered that the defendant may only be released to a court approved third party:

Shirley Sam  
 DOB: 06/02/1967  
 P.O. Box 64  
 3 Ridge Road  
 Koyukak, Alaska 99754  
 907-927-2245 Home  
 907-641-6216 Mobile

8. The third party custodian has the following duties:
  - a. Keep the defendant within sight and/or sound 24-hours per day;
  - b. Make every effort to assure the appearance of the defendant at all scheduled hearings;
  - c. Make every effort to assure the defendant complies with the conditions of release; and
  - d. If the defendant violates any condition of release, immediately report the violation to the prosecuting authority, and local police or Alaska State Troopers.
9. The third party custodian may remand the defendant to any jail without further order of the court if the third party custodian is no longer willing or able to provide the supervision required under this order. The jail shall accept the defendant and schedule the defendant for a court appearance.
10. Defendant may not reside in a household with a female minor under the age of 16 years old.

**FUTURE COURT APPEARANCE(S)**

DATE	TIME	COURTROOM	HEARING TYPE
04/02/2019	01:30 p.m.	Courtroom 404, Fairbanks Courthouse	Calendar Call
04/15/2019	08:30 a.m.	Nenana Courthouse	Scheduled Trial Week

March 15, 2019  
Effective Date of Order



Notice: This is an electronic version of the conditions of release ordered by the court. The court case file contains the original order(s).  
Judge Douglas L. Blankenship

I certify that on 03/15/2019 a copy of this order was distributed to:

- |   |   |  |   |                                   |                              |                                 |                               |
|---|---|--|---|-----------------------------------|------------------------------|---------------------------------|-------------------------------|
| <input type="checkbox"/> Def            | <input type="checkbox"/> TPC            | <input checked="" type="checkbox"/> PD | <input checked="" type="checkbox"/> PED | <input type="checkbox"/> DOC Prob | <input type="checkbox"/> OPA | <input type="checkbox"/> OCC    | <input type="checkbox"/> OSPA |
| <input checked="" type="checkbox"/> FCC | <input checked="" type="checkbox"/> DAO | <input type="checkbox"/> AST           | <input type="checkbox"/> FPD            | <input type="checkbox"/> NPPD     | <input type="checkbox"/> FAP | <input type="checkbox"/> UAFFPD | <input type="checkbox"/> FCRJ |
| <input type="checkbox"/> COF            | <input type="checkbox"/> JS             |  |   |                                   |                              |                                 |                               |
| <input type="checkbox"/> FASAP          | <input type="checkbox"/> LEAP           |  |   |                                   |                              |                                 |                               |
| <input type="checkbox"/> Other: _____   |   |  |   |                                   |                              |                                 |                               |

Clerk: TWilliams

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA AT GALENA

MAR 16 2020

State of Alaska

vs. Defendant: Darrell Leroy Sam, III

Date of Birth: 07/27/1998

Case No(s): 4GA-18-00034CR

Clerk of the Trial Courts

**APPLICATION FOR SECOND OR SUBSEQUENT BAIL REVIEW HEARING**

This is the defendant's application for a second or subsequent bail review hearing. The last bail review hearing was held on (date) 10/23/18

1. I request a hearing date for this application on: Next available
2. This case alleges that there is a crime victim:  Yes  No
3. I notified the prosecutor of this application on (date) 3/16/20 at 4:20  am  pm  
I notified the prosecutor by:  mail  fax  in person  phone  email.
4.  There is a surety who posted my bond (name) \_\_\_\_\_  
I gave the surety written notice of my application on (date) \_\_\_\_\_
5.  Defendant is in custody at (location) FCC, and has been in custody in this case since (date) 2018.
6. In this case, I am:  representing myself  an attorney representing the defendant.
7. I request a bail review hearing in  District Court  Superior Court.
8. ~~I have new information not considered at previous bail review hearings.~~

I am unable to pay bail. I have made the following good faith efforts to post bail (Note: you may receive only one bail review hearing for inability to pay):

I have other new information not considered: Jail is not a safe place to be right now due to the coronavirus. Mr. Sam can live with his mother in Koyukuk.

This new information was not presented at previous hearings because:

9. Relief requested:

- Bail modification from: \$10,000 to: \$1,000
- Delete third party custodian requirement.
- New proposed third party custodian: Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_ DOB: \_\_\_\_\_ AK DL/ID#: \_\_\_\_\_
- Custody arrangement:  24 hour  Other: \_\_\_\_\_
- Monitoring by: \_\_\_\_\_
- Other: Shall be released only to his mother Shirley Sam.

10.  I spoke to prosecutor (name) \_\_\_\_\_ who waives:  
 new information  giving 48 hours' notice  waiting 7 days between hearings.

11.  I spoke to the surety (name) \_\_\_\_\_ who agrees to waive the requirement of giving 48 hours' notice of my request for a review hearing.

03/16/2020

Date

(907) 458-6791

Phone Number of Applicant

mary.bullis@alaska.gov

Email of Applicant

Mary K. Bullis 17/2096  
Signature of Applicant (Defendant or Attorney)

Mary K. Bullis

Printed Name of Applicant

#1311108

Attorney Bar Number

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA AT GALENA

State of Alaska

vs. Defendant: Darrell Leroy Sam, III

Date of Birth: 07/27/1998

Case No(s): 4GA-18-00034CR

**\*\*Leave This Portion Blank for the Court to Fill Out\*\***

**NOTICE REGARDING REQUEST FOR BAIL REVIEW HEARING**

The defendant applied for review of the imposed conditions of release. This application is the applicant's second or subsequent.

**A hearing on this application:**

Is ordered.

The hearing will be held as follows:

Date: \_\_\_\_\_ Time: \_\_\_\_\_ Courtroom: \_\_\_\_\_

Location: \_\_\_\_\_

A Notice of Hearing will be sent to you at a later date.

Is denied for the following reasons:

This would be a 3rd bail review hearing. Coronavirus  
is not new grounds for a bail hearing.

3/17/2020  
Date

[Signature]  
Judicial Officer/Clerk<sup>1</sup>  
THOMAS J. TEMPLE  
Type or Print Name

I certify that on 3/17/20  
a copy of this order was sent to:

PD  DA  
 Deft. \_\_\_\_\_

Clerk: AT

THIS IS TO CERTIFY THAT A COPY  
OF THE FOREGOING IS BEING  
\_\_\_\_ FAXED/  E-MAILED  
\_\_\_\_ MAILED/ \_\_\_\_\_ HAND DELIVERED  
TO THE FOLLOWING ATTORNEY(S)  
OR PARTIES OF RECORD: DAO  
ERU 3/16/20  
NAME DATE

<sup>1</sup> If request for hearing is denied, must be signed by a Judicial Officer.

LODGED by E-File

MAR 16 2020

IN THE DISTRICT/SUPERIOR COURT FOR THE STATE OF ALASKA  
AT KENAI

**COMPLAINT**

STATE OF ALASKA		Plaintiff
vs.		
NASHOANAK, ERWIN DAN		Defendant
Date of Birth: <u>07/16/1987</u>	APVIN: <u>AK7002167</u>	
ATN: <u>116540262</u>	DV Related: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Oper Lic No: <u>7560663 AK</u>	CDL? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Address:		

Case No: 3KN-19-02098CR

RECEIVED

DEC 23 2019

PUBLIC DEFENDER AGENCY  
KENAI

CTN: <u>001</u>	Offense: <u>AS11.41.220(a)(5)(B)</u>	Class: <u>Class C Felony</u>
<u>Assault in the third degree</u>		
<input checked="" type="checkbox"/> Attempt - AS11.31.00 <input type="checkbox"/> Solicitation - AS11.31.110 <input type="checkbox"/> Conspiracy - AS11.31.120 <input type="checkbox"/> Gang-Related - AS12.55.137		
Traffic Offense: <input type="checkbox"/> Highway Work Zone <input type="checkbox"/> Traffic Safety Corridor Commercial Vehicle? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No           Type: <input type="checkbox"/> >26,000lbs. <input type="checkbox"/> >15 passengers <input type="checkbox"/> Hazardous Materials		

THE COMPLAINANT STATES that on or about 12/22/2019, at or near NIKISKI, in the Third Judicial District, State of Alaska, the above-named Defendant did unlawfully commit the offense of Assault in the third degree when he/she:

committed a crime in violation of AS 11.41.230 (a)(1) or (2) and, within the preceding 10 years, he/she was convicted on two or more separate occasions of crimes under AS11.41.200 11.41.220, 11.41.230(a)(1) or (2), 11.41.280, or 11.41.282; Prior Convictions: \_\_\_\_\_ Sentencing Dates: \_\_\_\_\_; \*AS11.41.220(a)(5)(B)

**VRA CERTIFICATION:**

I certify that this document and its attachments do not contain (1) the name of a victim of a sexual offense listed in AS 12.61.140 or (2) a residence or business address or telephone number of a victim of or witness to any offense unless it is an address used to identify the place of the crime or it is an address or telephone number in a transcript of a court proceeding and disclosure of the information was ordered by the court.

I certify under penalty of perjury that the foregoing is true.

12/23/19

Date

Complainant's Signature

Trooper Kevin

Type or Print Name and Title

Agency No. AK19091190

Search Warrant(s): \_\_\_\_\_

IN THE DISTRICT/SUPERIOR COURT FOR THE STATE OF ALASKA  
AT KENAI

**COMPLAINT**

STATE OF ALASKA		Plaintiff	Case No: _____
vs.			
<u>NASHOANAK, ERWIN DAN</u>		Defendant	
Date of Birth: <u>07/16/1987</u>	APSIN: <u>AK7002167</u>		
ATN: <u>115540262</u>	DV Related: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
Oper Lic No: <u>7560661 AK</u>	CDL? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Address: _____			

CTN: <u>002</u>	Offense: <u>AS11.46.486(a)(2)</u>	Class: <u>Class B Misdemeanor</u>
<u>Criminal mischief in the fifth degree</u>		
<input type="checkbox"/> Attempt - AS11.31.00 <input type="checkbox"/> Solicitation - AS11.31.110 <input type="checkbox"/> Conspiracy - AS11.31.120 <input type="checkbox"/> Gang-Related - AS12.55.137		
Traffic Offense: <input type="checkbox"/> Highway Work Zone <input type="checkbox"/> Traffic Safety Corridor Commercial Vehicle? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No    Type: <input type="checkbox"/> >26,000lbs. <input type="checkbox"/> >15 passengers <input type="checkbox"/> Hazardous Materials		

THE COMPLAINANT STATES that on or about 12/22/2019, at or near NIKISKI, in the Third Judicial District, State of Alaska, the above-named Defendant did unlawfully commit the offense of Criminal mischief in the fifth degree when he/she:

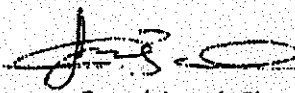
having no right to do so or any reasonable ground to believe the person had such a right, with intent to damage property of another, the person damaged property of another in an amount less than \$250. \*AS11.46.486(a)(2)

**VRA CERTIFICATION:**

I certify that this document and its attachments do not contain (1) the name of a victim of a sexual offense listed in AS 12.61.140 or (2) a residence or business address or telephone number of a victim of or witness to any offense unless it is an address used to identify the place of the crime or it is an address or telephone number in a transcript of a court proceeding and disclosure of the information was ordered by the court.

I certify under penalty of perjury that the foregoing is true.

12/23/19  
Date

  
Complainant's Signature  
Trooper R. Keen  
Type or Print Name and Title



IN THE DISTRICT/SUPERIOR COURT FOR THE STATE OF ALASKA  
 AT KENAI

**COMPLAINT**

STATE OF ALASKA		Plaintiff	Case No: _____
vs. NASHOANAK, ERWIN DAN		Defendant	
Date of Birth: <u>07/16/1987</u>	APVIN: <u>AK7002167</u>		
ATN: <u>116S40262</u>	DV Related: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Oper Lic No: <u>7560663 AK</u>	CDL? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Address:			

CTN: <u>003</u>	Offense: <u>AS11.56.700(a)(1)</u>	Class: <u>Class A Misdemeanor</u>
<u>Resisting or interfering with arrest</u>		
<input type="checkbox"/> Attempt - AS11.31.00 <input type="checkbox"/> Solicitation - AS11.31.110 <input type="checkbox"/> Conspiracy - AS11.31.120 <input type="checkbox"/> Gang-Related - AS12.55.137		
Traffic Offense: <input type="checkbox"/> Highway Work Zone <input type="checkbox"/> Traffic Safety Corridor Commercial Vehicle? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No                    Type: <input type="checkbox"/> >26,000lbs. <input type="checkbox"/> >15 passengers <input type="checkbox"/> Hazardous Materials		

THE COMPLAINANT STATES that on or about 12/22/2019, at or near NIKISKI, in the Third Judicial District, State of Alaska, the above-named Defendant did unlawfully commit the offense of Resisting or interfering with arrest when he/she:

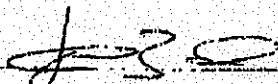
A person commits the crime of resisting or interfering with arrest if, knowing that a peace officer is making an arrest, with the intent of preventing the officer from making the arrest, the person resists personal arrest or interferes with the arrest of another by force. \*AS11.56.700(a)(1)

**VRA CERTIFICATION:**

I certify that this document and its attachments do not contain (1) the name of a victim of a sexual offense listed in AS 12.61.140 or (2) a residence or business address or telephone number of a victim of or witness to any offense unless it is an address used to identify the place of the crime or it is an address or telephone number in a transcript of a court proceeding and disclosure of the information was ordered by the court.

I certify under penalty of perjury that the foregoing is true.

12/23/19  
 Date

  
 Complainant's Signature  
Trooper Bunker  
 Type or Print Name and Title

Agency No. AK19091190

Search Warrant(s): \_\_\_\_\_

IN THE DISTRICT/SUPERIOR COURT FOR THE STATE OF ALASKA  
AT KENAI

**COMPLAINT**

STATE OF ALASKA		Plaintiff	Case No: _____
vs.			
<u>NASHOANAK, ERWIN DAN</u>		Defendant	
Date of Birth: <u>07/16/1987</u>	APSN: <u>AK7002167</u>		
ATN: <u>116540262</u>	DV Related: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Oper Lic No: <u>7580663 AK</u>	CDL? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Address:			

CTN: <u>004</u>	Offense: <u>AS11.61.110(a)(6)</u>	Class: <u>Class B Misdemeanor</u>
<u>Disorderly conduct</u>		
<input type="checkbox"/> Attempt - AS11.31.00 <input type="checkbox"/> Solicitation - AS11.31.110 <input type="checkbox"/> Conspiracy AS11.31.120 <input type="checkbox"/> Gang-Related - AS12.55.137		
Traffic Offenses: <input type="checkbox"/> Highway Work Zone <input type="checkbox"/> Traffic Safety Corridor Commercial Vehicle? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No    Type: <input type="checkbox"/> >26,000lbs. <input type="checkbox"/> >15 passengers <input type="checkbox"/> Hazardous Materials		

THE COMPLAINANT STATES that on or about 12/22/2019, at or near NIKISKI, in the Third Judicial District, State of Alaska, the above-named Defendant did unlawfully commit the offense of Disorderly conduct when he/she:

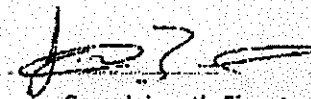
recklessly created a hazardous condition for others by an act which has no legal justification or excuse; \*AS11.61.110(a)(6)

**VRA CERTIFICATION:**

I certify that this document and its attachments do not contain (1) the name of a victim of a sexual offense listed in AS 12.61.140 or (2) a residence or business address or telephone number of a victim of or witness to any offense unless it is an address used to identify the place of the crime or it is an address or telephone number in a transcript of a court proceeding and disclosure of the information was ordered by the court.

I certify under penalty of perjury that the foregoing is true.

11/23/19  
Date

  
Complainant's Signature  
Trooper Broken  
Type or Print Name and Title

Agency No. \_\_\_\_\_  
 Search Warrant(s): \_\_\_\_\_

IN THE DISTRICT/SUPERIOR COURT FOR THE STATE OF ALASKA  
 AT Kenai

**AFFIDAVIT by Police Officer**  
**In Support of Complaint**

State of Alaska,  
 Plaintiff,  
 vs.  
 Erwin Nashoanak  
 Defendant 1 of 1.

Date of Birth: 07/16/1987	APSN: AK7002167
Operator License Number: 7560663	
State: AK CDL? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Mailing Address: 50425 Littmitz Avenue	
City: Nikiski	State: AK ZIP: 99635

CASE NO. \_\_\_\_\_

Defendant(s)	ATN	CTN(s)	Date Offense	Offense Location
Erwin Nashoanak	116540262	001-004	12/22/2019	Nikiski

I, Jacob B. Barker attest to the following and state:

On 12/22/2019 at 1952 hours, AST Dispatch received a report of a disturbance at 50425 Littmitz Avenue Nikiski. Sergeant Hunter, Trooper Lorrington, and I arrived on scene. Upon arrival we contacted the complainant Tavian Borowski. I interviewed Tavian in the back room of the residence while Sergeant Hunter interviewed Erwin Borowski in the Kitchen and Trooper Lorrington was interviewing Branson Pete in the front room.

Tavian stated in essence. She had arrived at the residence approximately four hours prior to us arriving. She stated as soon as she arrived, she started arguing with Erwin. She stated Erwin was accusing her of having an affair. Tavian stated Erwin punched and kicked her on rear end approximately 10 times. Tavian also stated he punched her and kicked her in her breast approximately 10 times. She stated he then punched her in her head and then smacked her in the face which resulted in her glasses breaking. Tavian had a bump on her head consistent with the statements and her glasses were broken. She also had a bruising on her left hand which she stated was from trying to block Erwin from kicking her. Tavian stated she was afraid to call 911 due to Erwin stating he would kill her if the cops came. Tavian instead text her mother Olga

Borowski and informed her of the situation and asked her to call the cops. Tavian stated Erwin threatened her with a 20lb dumb bell at one point. Tavian was afraid for the safety of her son Jedidiah Nashoanak and herself.

I spoke with Erwin. He stated he had been arguing with Tavian for about three hours. He stated nothing happened except she tried to grab him which resulted in her falling and breaking her glasses.

Trooper Loring stated Branson stated in essence Tavian and Erwin were yelling at each other so he took his kids into the front room to avoid having be around the arguing. Branson sated at one-point Tavian came into the room with his kids and himself Erwin followed. Branson was in between Erwin and Tavian. Erwin attempted to kick Tavian but was unable to. Tavian stated he wouldn't hit her in front of the kids. Erwin and Tavian soon left the front room and went back to the back room. Branson stated Erwin had broken a chair while hitting the walls. Branson stated he and Erwin stepped outside and smoked to calm down. Branson stated he did not see Erwin hit Tavian he only heard the yelling from the other room.

Erwin was placed under arrest. Once Erwin was informed, he was under arrest he started to get agitated. He then stated he was not going to go. Sergeant Hunter and I started walking Erwin out of the residence. Erwin started resisting and trying to get away from us. While we approached the front door, Erwin placed his foot on the door and pushed back. Erwin was taken to the ground. Once on the ground Erwin started kicking at Sergeant Hunter myself and Trooper Loring. Erwin's legs were detained. Once his legs were detained so he was unable to kick anymore he started yelling that he would be compliant if we would let him walk instead of carrying him out. Sergeant Hunter removed the hand cuffs from Erwin's legs, and we stood him up. Erwin was placed in the back of Trooper Loring's patrol vehicle.

A check of APSIN found Erwin to have four prior convictions of assault in the fourth in the last ten years (09/26/2018, 03/06/2014, 12/06/2013, 11/02/2012). Erwin was charged with assault in the third DV, criminal mischief in the fifth DV, resisting arrest, and DC.

VRA CERTIFICATION. I certify that this document and its attachments do not contain (1) the name of a victim of a sexual offense listed in AS 12.61.140 or (2) a residence or business address or telephone number of a victim of or witness to any crime unless it is an address used to identify the place of the crime or it is an address or telephone number in a transcript of a court proceeding and disclosure of the information was ordered by the court.

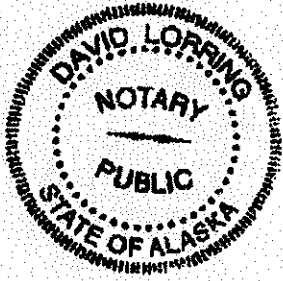
12/23/2019  
Date

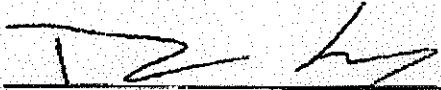
  
Complainant's Signature

Trooper Becker  
Type or Print Name and Title

Subscribed and sworn to or affirmed before me at Seldovia, Alaska, Alaska, on 12/23/19

(SEAL)



  
Notary Public or other person authorized to administer oaths.  
My commission expires: End of 2016

INTBAI

IN THE DISTRICT/SUPERIOR COURT FOR THE STATE OF ALASKA AT KENAI  
ORDER AND CONDITIONS OF RELEASE

Case #	3KN-19-02088CR			
Plaintiff:	Defendant:	DOB:	APSIM:	DLID#:
STATE OF ALASKA	ERWIN NASHOANAK	7/16/1967	7002167	7560883

Victim (if known)  No PED Rpt

IT IS ORDERED that the above-named defendant be released under the conditions marked below.

NOTE: If Defendant is arrested for violating conditions of release, this order is revoked, and Defendant shall be held on the requirement of a court-approved third party custodian until the matter is addressed again in the originating court.

RECEIVED  
DEC 23 2019

DEC 23 2019

PUBLIC DEFENDER AGENCY  
KENAI

OWN RECOGNIZANCE (O.R. Release)

BONDS. Defendant to get the following bonds:

Offenses before 7/9/2019:

- Appearance Bond of \$ \_\_\_\_\_  unsecured  10% cash  100% cash
- Performance Bond of \$ \_\_\_\_\_  100% cash or bail bond  new money
- unsecured  10% cash
- 100% cash  new money

[Monetary Bail] The court finds by clear and convincing evidence that O.R. release, or unsecured bonds, or nonmonetary conditions will not ensure the defendant's appearance, or the safety of the victim, other persons, or the community.

Offenses on or after 7/9/2019:

- Appearance Bond of \$ \_\_\_\_\_  unsecured  10% cash  100% cash
- 100% cash or bail bond  new money

Performance Bond of \$ 10000 100% cash  new money

PRETRIAL ENFORCEMENT DIVISION (PED) SUPERVISION. Defendant ordered to supervision by a PED officer during the pretrial period per AS 33.07. Maintain contact with the PED officer, and follow all PED officer instructions. 120 Trading Bay Rd., Ste. 320, Kenai, AK.

No electronic monitoring (EM); defendant must call 1-833-500-8090 within 24 hours of release for instructions.  Submit to search upon reasonable suspicion for alcohol and/or illegal drugs.

EM ordered; defendant to remain in custody until monitor is attached:  Alcohol monitoring

House Arrest. 24 hours per day.  Curfew from: \_\_\_\_\_

Passes allowed for emergency medical and court/lawyer; other passes:  work  treatment

other passes at PED discretion. Passes to be verified by PED.

Location Restrictions: \_\_\_\_\_

Allow PED to enter defendant's residence to verify/maintain EM equipment.

THIRD PARTY CUSTODIAN.  Defendant is placed in custody of: \_\_\_\_\_

[if offense before 7/9/2019] The court finds that PED supervision is unavailable in defendant's location; and no secured bond was ordered; and no other conditions of release can reasonably ensure the defendant's appearance and the safety of the victim/other persons/ community.

24-hour airt and sound  Pick up from VVWPTF at \_\_\_\_\_ and drop off at \_\_\_\_\_

Face-to-face handoffs if more than 1 TPC.  May return to jail for any reason

Effective immediately, defendant to obey the following conditions:

Obey all court orders and all federal, state, and local laws. Appear in court when ordered.

Maintain contact with your attorney, if represented.

Tell your attorney or the court within 24 hours after changing residences.

Tell your attorney or the court of any new phone or email by the next business day.

Do not leave  Alaska  \_\_\_\_\_  without written court permission.

Do not consume or possess  alcohol  illegal drugs  marijuana, or enter any place they are the primary sale item.

Be tested  as recommended by PED or  \_\_\_\_\_

Schedule a  mental health assessment  substance abuse assessment within \_\_\_\_\_ days.

Enroll in the recommended program(s) and follow all treatment recommendations.

This may include residential treatment of up to \_\_\_\_\_ days.

Execute a Release of Information from providers to PED, so PED may monitor compliance.

INTBAIL

- If medication is recommended and prescribed, take medication as prescribed. This may include medically assisted treatment medications, such as Vivitrol or Suboxone.
- Do not possess any deadly weapons on your person, residence, or vehicle.
- Do not directly or indirectly contact TAVIAN BOROWSKI
- Do not discuss case with: \_\_\_\_\_
- Do not return to: \_\_\_\_\_
- Except for a one-time civil assist to retrieve undisputed person items.
- No driving without a valid license and insurance.
- Follow:  DVRO conditions on p. 2  Probation conditions in case: \_\_\_\_\_
- Other: \_\_\_\_\_

NEXT COURT HEARING Date: \_\_\_\_\_ Time: \_\_\_\_\_ City: Kenai  
 Reason for Next Hearing: IC PH 1/2/20 @ 4 PM OC 1/13/20 @ 4 PM

Date: 12/23/2019 Judicial Officer: Kimberley Sweet

**ACCEPTANCE OF DUTIES BY CUSTODIAN.** I understand my duties and agree to perform them. I agree to immediately report to local law enforcement, the prosecutor, and the court if defendant violates any condition of release. I understand that I may be charged with a crime if I fail to perform my duties.  
 Custodian's Signature: \_\_\_\_\_ Date of Birth: \_\_\_\_\_  
 Residence Address: \_\_\_\_\_ City/State/Zip: \_\_\_\_\_  
 Reliable Phone #1: \_\_\_\_\_ Reliable Phone #2: \_\_\_\_\_

**AGREEMENT BY DEFENDANT.** I reviewed the above order. I promise to comply. If I fail to do so, I may be arrested without a warrant.  Defendant acknowledged on the record.  
 Defendant's Signature: \_\_\_\_\_ Email: \_\_\_\_\_  
 Residence Address: \_\_\_\_\_ City/State/Zip: \_\_\_\_\_  
 Home Phone: \_\_\_\_\_ Work Phone: \_\_\_\_\_ Cell Phone: \_\_\_\_\_

Recommended Distribution: Deft, Deft Atty, Prosecutor, Jail, TPC, PED, APO, ASAP, Local Police, AST, VPSO

INTBAIL

IN THE DISTRICT/SUPERIOR COURT FOR THE STATE OF ALASKA  
AT ~~KEENE~~

STATE OF ALASKA

Plaintiff,

vs.

ERWIN NASHOANAK

Defendant.

CASE NO: 3191-19-02098CR

ADDITIONAL CONDITIONS OF  
RELEASE - DOMESTIC VIOLENCE

The court finds that the defendant is charged with a crime involving domestic violence. To protect the alleged victim, household members, and the community, and to ensure the defendant's appearance in court, it is ordered that:

- 1. Defendant shall not threaten to commit or commit domestic violence, stalking, harassment or sexual assault.
- 2. Defendant shall not telephone contact or otherwise communicate directly or indirectly with the following person(s): [REDACTED]
- 3. Defendant shall not enter any residence of the person(s) named in paragraph 2 or any structure occupied by the person(s).
- 4. Defendant shall stay at least ~~500~~  feet  miles away from the residence, school and place of employment of the person(s) named in paragraph 2 and the following additional places frequented by said person(s): \_\_\_\_\_
- 5. Defendant shall not enter or follow a vehicle in the possession of or occupied by the person(s) named in paragraph 2.
- 6. Defendant shall not use or possess a deadly weapon.
- 7. Defendant shall surrender any firearm owned or possessed by the defendant to: \_\_\_\_\_ no later than \_\_\_\_\_.
- 8. Defendant shall not consume  controlled substances  alcohol
- 9. Defendant shall \_\_\_\_\_.

Pursuant to AS 18.65.530(a)(3) and AS 12.25.030(b)(1) and (b)(2)(C), the defendant may be arrested without a warrant for violating any of the above conditions.

12/23/2019

Date

*Kimberley Sweet*

Judge  
*Kimberley Sweet*  
Type or Print Judge's Name

Recommended Distribution: Deft, Deft Atty, Prosecutor, Jail, TPC, FED, APO, ASAP, Local Police, AST, VPSO

CR-222 (2/19)(cs)

ADDITIONAL CONDITIONS OF RELEASE - DOMESTIC VIOLENCE

AS 12.30.027  
AS 18.65.530(a)(3)



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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
THIRD JUDICIAL DISTRICT AT KENAI

STATE OF ALASKA,

Plaintiff,

vs.

ERWIN DAN NASHOANAK  
DOB: 07/16/1987  
APSIN ID: 7002167  
DMV NO.: 7560663 AK  
ATN: 116540262

Defendant.

**FILED**  
**IN OPEN COURT**  
Date: 1-2-20  
Clerk: lcc

No. 3KN-19-02098CR (Erwin Dan Nashoanak)

RECEIVED  
JAN 03 2020  
PUBLIC DEFENDER AGENCY  
KENAI

**INDICTMENT**

I certify this document and its attachments do not contain the (1) name of a victim of a sexual offense listed in AS 12.61.140 or (2) residence or business address or telephone number of a victim of or witness to any offense unless it is an address identifying the place of a crime or an address or telephone number in a transcript of a court proceeding and disclosure of the information was ordered by the court. The following counts charge a crime involving DOMESTIC VIOLENCE as defined in AS 18.66.990:

Count I - AS 11.41.220(a)(5)  
Assault In The Third Degree  
Erwin Dan Nashoanak - 001

**THE GRAND JURY CHARGES:**

**COUNT I:**

That in the Third Judicial District, State of Alaska, on or about December 23, 2019, at or near Nikiski, ERWIN DAN NASHOANAK committed a crime in AS 11.41.230(a)(1) or (2) and, within the preceding 10 years, was convicted on two or more separate occasions of crimes under a law or ordinance of this or another jurisdiction with elements similar to AS 11.41.230(a)(1) or (2).

Department of Law, Criminal Division  
120 Trading Bay Rd Ste 200, Kenai, AK 99611  
Phone: (907) 283-3131 Fax: (907) 283-9553  
Email: lawkenaidoc@alaska.gov


Department of Law, Criminal Division  
120 Trading Bay Rd Ste 200, Kenai, AK 99611  
Phone: (907) 283-3131 Fax: (907) 283-9553  
Email: lawkenaidoc@alaska.gov

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All of which is a class C Felony offense being contrary to and in violation of AS11.41.220(a)(5) and against the peace and dignity of the State of Alaska.

DATED this 2nd day of <sup>January 2020</sup> ~~December, 2019~~ at Kenai, Alaska.

A true bill



Grand Jury Foreperson



Jon Iannaccone  
Assistant District Attorney  
Alaska Bar No. 1612115

**WITNESSES EXAMINED BEFORE THE GRAND JURY:**

Trooper Jacob Barker  
Tavian Pearl Borowski

FILED IN THE ALASKA TRIAL COURTS ON 1/10/2020

INTBAIL

IN THE DISTRICT/SUPERIOR COURT FOR THE STATE OF ALASKA AT  
STATE OF ALASKA CASE NO. 3KN-19-02098CR  
vs. Defendant: ERWIN DAN NASHOANAK  Vic. Case (if known)  No PED Rpt  
DOB: 7/16/1987 DL/ID  CDL: 7580683 ST: AK ATN: 116540262 APSIN: 7002167

ORDER AND CONDITIONS OF RELEASE

IT IS ORDERED that the defendant be released under the conditions marked below:

- OWN RECOGNIZANCE.
- BONDS. Defendant to get the following bonds:  
 Offenses before 7/9/2019:  
 Appearance: \$ \_\_\_\_\_  unsecured  10% cash  100% cash  100% cash or bail bond  
 Performance: \$ \_\_\_\_\_  unsecured  \_\_\_\_\_  
 [If Monetary Bail] The court finds by clear and convincing evidence that own recognizance release, or unsecured bonds, or nonmonetary conditions will not ensure the defendant's appearance, or the safety of the victim, other persons, or the community.  
 Offenses on or after 7/9/2019:  
 Appearance: \$ \_\_\_\_\_  unsecured  10% cash  100% cash  100% cash or bail bond  
 Performance: \$ 50,000 100% cash
- PED SUPERVISION. The defendant is ordered to supervision by a Pretrial Enforcement Division (PED) officer during the pretrial period per AS 33.07. Defendant must maintain contact with the PED officer and follow all PED officer instructions.  
 Call 4-333-500-5090 within 24 hours of release for instructions.  
 EM ordered.  Defendant to remain in custody until monitor is attached:  
 Alcohol monitoring  
 Curfew: \_\_\_\_\_  
 Location restrictions: \_\_\_\_\_  
 Allow PED to enter defendant's residence to verify/maintain EM equipment.
- THIRD PARTY CUSTODIAN. (See attached form CR-224.)
- Effective immediately, the defendant shall:
  - Obey all court orders and all federal, state, and local laws. Appear in court when ordered.
  - Maintain contact with your PED officer, if appointed one, and follow all PED officer instructions.
  - Maintain contact with your attorney, if represented.
  - Tell your attorney or the court within 24 hours after changing residences.
  - Tell your attorney or the court of any new phone or email by the next business day.
  - Do not leave  Alaska  \_\_\_\_\_  without written court permission.
  - Do not possess or consume  alcohol  illegal drugs, or enter any place where they are sold.
  - Be tested  as recommended by PED or  \_\_\_\_\_
  - Do not directly or indirectly contact Tavian Borowski
  - Do not discuss the case with Brandon Pete. Third party custodian is Monica Steve.

NEXT COURT HEARING Date: 2/4/2020 Time: 2:30 City: SELECT

1/10/2020 Date \_\_\_\_\_  
Judicial Officer \_\_\_\_\_

AGREEMENT BY DEFENDANT. I reviewed the above order. I promise to appear at all court hearings and to comply with all other conditions set. If I fail to do so, I may be arrested without a warrant, and the court may enter a judgment against me for the amount of the bond posted and any unsecured bond.

Defendant's Signature	Home Phone	Work Phone	Cell Phone
Residence Address	City	State	ZIP
Email Address			

Recommended Distribution: Deft, Deft Atty, Prosecutor, Jail, TPC, PED, APO, ASAP, Local Police, AST, VPSO

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA AT KENAI

State of Alaska

vs. Defendant: Erwin Dan Nashoanak

Date of Birth: 07/16/1987

Case No(s): 3KN-19-02098CR

**APPLICATION FOR SECOND OR SUBSEQUENT BAIL REVIEW HEARING**

This is the defendant's application for a second or subsequent bail review hearing. The last bail review hearing was held on (date) 1/10/20.

- 1. I request a hearing date for this application on: ASAP \_\_\_\_\_.
- 2. This case alleges that there is a crime victim:  Yes  No
- 3. I notified the prosecutor of this application on (date) 3/17/20 at \_\_\_\_\_  am  pm  
I notified the prosecutor by:  mail  fax  in person  phone  TrueFiling
- 4.  There is a surety who posted my bond (name) \_\_\_\_\_  
I gave the surety written notice of my application on (date) \_\_\_\_\_.
- 5.  Defendant is in custody at (location) WWPT, and has been in custody in this case since (date) \_\_\_\_\_.
- 6. In this case, I am:  representing myself  an attorney representing the defendant.
- 7. I request a bail review hearing in  District Court  Superior Court.
- 8. I have new information not considered at previous bail review hearings.  
 I am unable to pay bail. I have made the following good-faith efforts to post bail (Note: you may receive only one bail review hearing for inability to pay):  
\_\_\_\_\_

I have other new information not considered: The court should reconsider its position on bail in light of the COVID-19 virus and the fact that pre-trial incarceration is the antithesis of social distancing. Also, the complaining witness contacted my office and requested that contact be allowed.

This new information was not presented at previous hearings because:  
\_\_\_\_\_

9. Relief requested:

- Bail modification from: 50K performance \_\_\_\_\_ to: 500 performance \_\_\_\_\_
- Delete third party custodian requirement.
- New proposed third party custodian: Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_ DOB: \_\_\_\_\_ AK DL/ID#: \_\_\_\_\_
- Custody arrangement:  24 hour  Other: \_\_\_\_\_
- Monitoring by: \_\_\_\_\_
- Other: Allow telephonic contact with complaining witness. \_\_\_\_\_

- 10.  I spoke to prosecutor (name) \_\_\_\_\_ who waives:  
 new information  giving 48 hours' notice  waiting 7 days between hearings.
- 11.  I spoke to the surety (name) \_\_\_\_\_ who agrees to waive the requirement of giving 48 hours' notice of my request for a review hearing.

03/17/2020  
Date  
(907) 283-9733  
Phone Number of Applicant  
laceyjane.brewster@alaska.gov  
Email of Applicant

/s/ Lacey Jane Brewster  
Signature of Applicant (Defendant or Attorney)  
Lacey Jane Brewster  
Printed Name of Applicant  
#1702005  
Attorney Bar Number

Exempt from VRA Certif.

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA AT KENAI

State of Alaska

vs. Defendant: Erwin Dan Nashoanak

Date of Birth: 07/16/1987

Case No(s): 3KN-19-02098CR

**\*\*Leave This Portion Blank for the Court to Fill Out\*\***

**NOTICE REGARDING REQUEST FOR BAIL REVIEW HEARING**

The defendant applied for review of the imposed conditions of release. This application is the applicant's second or subsequent.

**A hearing on this application:**

is ordered.

The hearing will be held as follows:

Date: \_\_\_\_\_ Time: \_\_\_\_\_ Courtroom: \_\_\_\_\_

Location: \_\_\_\_\_

A Notice of Hearing will be sent to you at a later date.

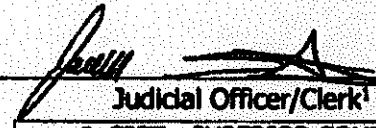
is denied for the following reasons:

COVID-19 not a sufficient basis as 'new information' for bail review.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

03/18/2020

Date

  
Judicial Officer/Clerk<sup>1</sup>  
**J. GIST - SUPERIOR COURT JUDGE**

Type or Print Name

I certify that on \_\_\_\_\_  
a copy of this order was sent to:

PD       DA  
 Deft.     \_\_\_\_\_

Clerk: \_\_\_\_\_

<sup>1</sup> If request for hearing is denied, must be signed by a Judicial Officer.