IN THE COURT OF APPEALS OF THE STATE OF ALASKA

CHRISTOPHER ALLEN SADOWSKI SR., Appellant, v. STATE OF ALASKA, Appellee.	Court of Appeals No. A-13445 Trial Court No. 4FA-15-01946 CR MEMORANDUM OPINION No. 7098 — April 3, 2024

Appeal from the Superior Court, Fourth Judicial District, Fairbanks, Douglas L. Blankenship, Judge.

Appearances: Sharon Barr, Assistant Public Defender, and Samantha Cherot, Public Defender, Anchorage, for the Appellant. Kenneth M. Rosenstein, Assistant Attorney General, Office of Criminal Appeals, Anchorage, and Treg R. Taylor, Attorney General, Juneau, for the Appellee.

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

Judge WOLLENBERG.

Following a jury trial, Christopher Allen Sadowski Sr. was convicted of first-degree murder for causing the death of his four-year-old son, C.S., through the infliction of blunt force trauma to C.S.'s head and burns to his upper body.[1]

On appeal, Sadowski argues that the superior court erred in allowing the State to introduce evidence of eight prior bad acts that Sadowski committed against C.S. and Sadowski's stepson, W.G. For the reasons explained in this opinion, we uphold the admission of evidence of several of these prior acts and conclude that the admission of the remaining evidence was harmless.

Sadowski also argues that his case should be remanded for resentencing. Sadowski contends that the superior court improperly delegated consideration of several of the *Chaney* sentencing criteria to the Department of Corrections and impermissibly considered his discretionary parole eligibility in determining his sentence. We disagree with Sadowski's interpretation of the record, and we therefore reject his sentencing claims.

Factual background

In the early morning hours of May 5, 2015, Christopher Sadowski told his girlfriend, Julia Valles, to call 911 because his son, four-year-old C.S., was not breathing. When emergency technicians responded, they discovered that C.S. did not have a pulse and was in dire need of medical care.

C.S. was transported to the hospital. The emergency room physician on duty examined C.S. and saw "no signs of life"; C.S. appeared to be in rigor mortis and his body temperature was measured at 82.4 degrees Fahrenheit. C.S. was declared deceased.

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[1] AS 11.41.100(a)(2) (providing that a person commits first-degree murder if the person "knowingly engages in conduct directed toward a child under the age of 16 and the person with criminal negligence inflicts serious physical injury on the child by at least two separate acts, and one of the acts results in the death of the child").

After learning that C.S. had died, the troopers took photographs of C.S.'s body. According to the troopers, C.S. had burn marks on his face, chest, and back, but no burns above his hairline. His eyes were swollen shut, and he had "bruises all over his body" and swelling at the back of his head.

At the time of C.S.'s death, Sadowski and C.S. had been living with Valles. They had moved into Valles's house about one month prior to C.S.'s death. Sadowski had recently been honorably discharged from the Army, was not working, and stayed at home as C.S.'s primary caretaker. He and his wife (C.S.'s mother), who was living in Wisconsin, were estranged.

A trooper interviewed Sadowski at the house. Sadowski told the trooper, "It's my fucking fault. I fucking burned him. I thought I could take care of it myself. I should have taken him to the hospital." After they arrived at the hospital, Sadowski told the trooper that he and C.S. had been in the shower, and "I didn't think it was that goddamn hot. I had shampoo, and I told him to quit whining." When Sadowski learned that C.S. had died, he collapsed in sobs and fell to the floor. He told the trooper several times, "I should have brought him in."

Sadowski was later interviewed at the trooper station. He acknowledged that he had burned C.S. but indicated that it was an accident. In particular, Sadowski told the troopers that, on May 3 (two days prior), he gave C.S. a shower and was rinsing shampoo from C.S.'s hair when C.S. started screaming. Sadowski did not think the water was too hot and thought that C.S. was simply reacting to having water sprayed in his face. Sadowski told the troopers that he only realized that the water had been too hot when he noticed that C.S.'s skin was peeling. At that point, he said, he "knew [he] fucked up."

Sadowski treated the burns with Aquaphor ointment and an ice pack and put C.S. to bed. He told the troopers that he did not take C.S. to the hospital because he did not think the burns looked that bad, and because he was afraid of losing custody of C.S.

Sadowski said that he continued to monitor C.S. over the next day, but C.S.'s swelling got worse. By 1:00 a.m. on May 5 (the day C.S. died), C.S. was "a bit lethargic" and "wouldn't answer questions right away," so Sadowski brought him into the living room to lay down with him. At some point, Sadowski realized that C.S. was not breathing and told Valles to call 911.

The troopers also asked Sadowski about the bruising on C.S.'s body. Sadowski denied causing the bruising. Sadowski told the troopers that C.S. was "active and clumsy," and because C.S. "treated everything like a jungle gym," Sadowski did not pay much attention to his bruising. Sadowski reported that C.S. had fallen down several times, including every time C.S. took a shower.

The medical examiner performed an autopsy on C.S.'s body. The examiner determined that the cause of death was "blunt force and thermal injuries of [the] head, torso, and extremities," and classified the manner of death as homicide. The medical examiner later testified that, without proper treatment, either of the injuries was capable of causing death.

Proceedings

The State charged Sadowski with one count of first-degree murder[2] and two counts of second-degree murder.[3] Prior to trial, the State sought permission to introduce, under Alaska Evidence Rules 404(b)(1) and (b)(4), evidence of several prior bad acts by Sadowski against C.S. and Sadowski's stepson, W.G. Following two

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[2] *Id.*

[3] AS 11.41.110(a)(1) (causing the death of a person "with intent to cause serious physical injury to another person or knowing that the conduct is substantially certain to cause death or serious physical injury to another person"); AS 11.41.110(a)(2) ("knowingly engag[ing] in conduct that results in the death of another person under circumstances manifesting an extreme indifference to the value of human life").

evidentiary hearings, the court ultimately authorized the admission of eight prior acts. (We discuss these acts, and the court's ruling, in more detail below.)

Sadowski's case proceeded to a jury trial. The State presented testimony by two Rule 404(b) witnesses, along with testimony by Valles, the investigating troopers, the medical personnel involved in C.S.'s treatment, and two medical experts.

Sadowski testified in his defense. According to Sadowski, C.S.'s bruising was caused by C.S. slipping and falling in the shower on two recent occasions: (1) on May 1 (several days prior to C.S.'s death on May 5), when C.S. fell onto his face while holding the showerhead, causing a "goose egg" on his forehead and a black eye; and (2) on May 3, when C.S. again fell in the shower, slipping and landing on the back of his shoulders and head.

With respect to the burns on C.S., Sadowski testified (as he had told the troopers) that he accidentally caused C.S.'s burns while bathing him. According to Sadowski, on May 3 (during the second shower incident in which C.S. fell), Sadowski accidentally burned C.S. with hot water while rinsing him off. Sadowski testified that he had checked the temperature of the water coming out of the showerhead before rinsing C.S., and it was a normal temperature. But while rinsing C.S. off, C.S. "reacted to the water," said it was hot, and backed up against the shower wall. Sadowski continued spraying C.S. with water because he thought the water was not hot, but C.S. "tensed up and he sat there." While Sadowski was drying off C.S., Sadowski noticed that C.S.'s skin was peeling off.

Sadowski testified that he treated C.S.'s burns himself by applying Aquaphor and a cold compress, and checked on C.S. every thirty to forty-five minutes for the rest of the day.

That night, when Valles returned home from work, Sadowski told her that something had happened in the shower. Valles observed C.S. on his bed; his eyes were swollen, and he had discoloration in his face, as if from a burn. She testified that she

wanted to take C.S. to the hospital, but Sadowski said that he was going to try to care for him.

Over the next two days, Sadowski monitored C.S. but did not seek medical care for him, despite the fact that — according to both his own testimony and Valles's testimony — C.S. looked worse the next morning, May 4. Sadowski testified that he continued to treat C.S. with Aquaphor and cold compresses throughout the day. However, Sadowski testified that, by that afternoon, C.S. appeared redder and more swollen. According to Valles (who testified at trial in exchange for immunity), at some point during the day, Sadowski told her that C.S. either urinated or threw up in his bed. And when Valles got home from work that evening, C.S.'s eyes were swollen shut, and he had defecated in his bed. According to Valles, she was more adamant that C.S. needed treatment, but Sadowski still thought he could treat C.S. himself.

Valles testified that she and Sadowski cleaned C.S. up in the shower, and afterward, C.S. was shivering and "kind of got limp in a way, almost like exhaustion." She was concerned about C.S.'s breathing because it did not sound normal. She and Sadowski decided to carry C.S. into the living room so that Sadowski could keep an eye on him while watching television.

Sadowski testified that in the early morning of May 5, he noticed that C.S. was not breathing. Sadowski started doing CPR and yelled for Valles to call 911.

During his testimony, Sadowski repeated his assertion that he did not take C.S. to the hospital right away because he thought he could take care of C.S.'s injuries. He also expressed concern that hospital staff would think he did "something horrible on purpose."

The State presented the testimony of two medical experts — Dr. Kenneth Gallagher, the forensic pathologist who had performed the autopsy on C.S., and Dr. Cathy Baldwin-Johnson, the medical director of Alaska CARES, who reviewed C.S.'s medical records and autopsy. Both experts testified that C.S.'s injuries could not have occurred in the manner that Sadowski described.

Gallagher testified that, given C.S.'s body temperature of 82.4 degrees Fahrenheit at the hospital and the extent of rigor mortis, it was not possible that C.S. was alive at 3:00 a.m. when the 911 call was made. He stated that a body temperature that low would not occur until five or more hours after death. He testified that the fact that C.S.'s eyes were swollen shut, that he was urinating and defecating on himself, and that he was shivering, going limp, and altering his breathing were all consistent with the process of dying.

With respect to C.S.'s thermal injuries, the medical experts both testified that the burn pattern on C.S.'s body was inconsistent with Sadowski's explanation that he had burned C.S. while rinsing shampoo from C.S.'s head. In particular, the experts testified that if the burns had been caused by Sadowski rinsing C.S.'s head with hot water, the most severe burns would have been on the top of C.S.'s head. But C.S. had no burns above his hairline. There was also a round and isolated burn on C.S.'s right hand, with no drip pattern around it; according to Baldwin-Johnson, hot water from a shower could not adequately explain this injury.[4]

Baldwin-Johnson "conservatively estimated" that C.S. had received second- and third-degree burns on sixteen to seventeen percent of his body and opined that burns that extensive require hospitalization and intensive therapy at a level she thought was unavailable in Alaska. She noted that C.S. had an extremely low sodium level, which meant he would have been suffering from a type of dehydration that causes lethargy, altered mental states, and can lead to seizures or progress to a coma.

With respect to C.S.'s bruising, the experts testified that C.S.'s blunt force injuries were inconsistent with falling in the shower and with the normal injuries a

[4] An investigating officer with the Alaska State Troopers testified that there were no burn marks under C.S.'s eyes, under his nose, or under his neck, and it appeared that liquid had pooled at the upper part of C.S.'s back — suggesting that liquid had been poured over C.S.'s forehead while he was lying down. Baldwin-Johnson also testified to the extensive burns on C.S.'s back.

young child might sustain through playing. Gallagher testified that C.S.'s blunt force injuries were more consistent with being in a car accident or a physical altercation between adults. Baldwin-Johnson testified that C.S.'s blunt force injuries were more consistent with "non-accidental trauma or some kind of an inflicted trauma." Baldwin-Johnson stated that children typically bruise their foreheads, forearms, elbows, knees, and shins — but that C.S. had bruises on the *upper* part of his knee, which is "atypical and very concerning for abuse." C.S. was also bruised on the fleshy part of each calf, which is unusual as compared to the more typical bruising that occurs in less padded areas like the shins.

Gallagher's autopsy report stated that C.S. had fifty-nine blunt force injuries to his body. (Gallagher testified that there were other, fainter injuries that he did not document in the report.) C.S. had subarachnoid hemorrhages (bleeding in the space that surrounds the brain), which require significant force, along with "eighteen separate injuries to the head," including a combination of both thermal and blunt force injuries. C.S. also had injuries to both his arms, legs, and torso.

Both experts testified that the blunt force injuries and the thermal injuries were potentially fatal, and it was impossible to determine which occurred first. Baldwin-Johnson thought that the injuries were potentially survivable if C.S. had received prompt medical attention.

In closing argument, the prosecutor asserted that Sadowski had intentionally or knowingly caused C.S.'s injuries. The prosecutor argued that Sadowski had a history of excessive physical discipline with his children, and theorized that this discipline escalated once Sadowski was under the strain of acting as C.S.'s full-time caretaker for the first time. The prosecutor suggested that Sadowski lost his temper with C.S. and beat him up, was worried that he would be blamed for the bruises, and tried to cover them up by burning C.S. The prosecutor argued that Sadowski could not have caused C.S.'s burns by accidently showering him with hot water, and that Sadowski instead deliberately poured scalding liquid on C.S.

Sadowski's attorney argued that Sadowski had not purposefully caused any of C.S.'s injuries. The attorney contended that Sadowski had accidentally burned C.S. by spraying him with hot water while bathing him, and failed in not seeking medical care earlier. The attorney further argued that Sadowski was not at fault for C.S.'s blunt force injuries, and maintained that those injuries were caused by C.S. falling twice in the shower and possibly other accidents that C.S. had in the course of regular play.

The jury subsequently found Sadowski guilty of all counts. The court merged the verdicts into a single conviction for first-degree murder.

A closer look at the prior bad act evidence

Prior to trial, the State filed two motions seeking to introduce evidence of Sadowski's prior acts under Alaska Evidence Rules 404(b)(1) and (b)(4). The superior court held two evidentiary hearings to consider the evidence.

At the first hearing, the State presented the testimony of Jamie Musgrave, who babysat C.S. five days a week for about a year (before Sadowski left the Army and assumed full-time caretaking responsibilities). Musgrave testified that, on two occasions, she observed bruising on C.S. that Sadowski acknowledged causing.

The first time, Musgrave saw bruises that looked like fingerprints on C.S.'s chin. When Musgrave asked Sadowski about it, he told her that he had grabbed C.S.'s face to make C.S. look at him.

The second time, Musgrave saw a handprint-shaped bruise on C.S.'s bottom. When she asked Sadowski about it, he told her that he had spanked C.S. too hard.[5]

[5] Musgrave also testified to a third occasion on which she saw bruises on C.S., but the superior court ruled this evidence inadmissible at trial.

The State argued that both of these prior acts should be admitted at trial under Evidence Rule 404(b)(1) to show absence of mistake or accident,[6] and Evidence Rule 404(b)(4) (applicable to prosecutions for crimes involving domestic violence) for propensity purposes.[7]

Sadowski contested the admissibility of the prior acts evidence under Rule 404(b)(1). Sadowski also argued that the court should not consider the admissibility of the evidence under Rule 404(b)(4) but rather, under Rule 404(b)(2) (the rule applicable to prosecutions for physical or sexual abuse against a child).[8] Sadowski argued that Rule 404(b)(2) was the appropriate rule because it was more specific, and because (according to Sadowski) the legislative intent behind Rule 404(b)(4) was to address different situations — assault in intimate partner relationships. He further argued that, when analyzed under Rule 404(b)(2), the prior acts were inadmissible

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[6] In the State's motion, the prosecutor argued that the evidence was admissible under Rule 404(b)(1) to both prove the identity of the person who caused C.S.'s injuries and to prove lack of mistake or accident. But at the evidentiary hearing, the State withdrew its argument regarding identity.

[7] Alaska Evidence Rule 404(b)(1) provides that "[e]vidence of other crimes, wrongs, or acts is not admissible if the sole purpose for offering the evidence is to prove the character of a person in order to show that the person acted in conformity therewith," but it is admissible for "other purposes, including, but not limited to, . . . absence of mistake or accident."

Alaska Evidence Rule 404(b)(4) provides that, in a prosecution for a crime involving domestic violence, "evidence of other crimes involving domestic violence by the defendant against the same or another person . . . is admissible" for propensity purposes.

[8] Alaska Evidence Rule 404(b)(2) provides:

> In a prosecution for a crime involving a physical or sexual assault or abuse of a minor, evidence of other acts by the defendant toward the same or another child is admissible if admission of the evidence is not precluded by another rule of evidence and if the prior offenses (i) are similar to the offense charged; and (ii) were committed upon persons similar to the prosecuting witness.

because they were not similar to the offense charged, as required by the rule, but rather reflected "overzealous discipline" distinct from the charged conduct.

The superior court granted the State's motion to introduce evidence of these two prior acts — Sadowski bruising C.S.'s chin and bottom — under Rule 404(b)(4). Analyzing the *Bingaman* factors, the court found that the evidence of the prior acts was strong, given the admissions by Sadowski to which Musgrave would testify.[9] The court found that the prior acts demonstrated Sadowski's disciplinary techniques — a "material" characteristic given the allegations. In particular, the court found that the acts to which Musgrave testified "demonstrate a type of situational behavior that is similar to the behavior" for which Sadowski was charged, and tended to support the government's theory that Sadowski's disciplinary conduct escalated to the charged conduct. The court found that the conduct was not remote in time and that the testimony would not take an inordinate amount of time, and ultimately concluded that the evidence would not cause a jury to find Sadowski guilty based on improper grounds.

At the second hearing, the court heard testimony from Bethany Huettner, Sadowski's estranged wife and C.S.'s mother. Huettner lived in Wisconsin at the time of C.S.'s death; she and Sadowski had decided to divorce, and Sadowski had moved to Alaska. (Initially, Huettner had custody of C.S. in Texas, but Sadowski took custody after confronting Huettner, seemingly about her living situation, and threatening to report her for fraudulent endorsement of an insurance check if she did not transfer custody of C.S. to him.)

While they were married and living in Tennessee, and then Texas, Sadowski and Huettner lived with C.S. and W.G., Huettner's son from a previous relationship. Huettner testified that Sadowski engaged in overly harsh disciplinary techniques, primarily with W.G. when he was between two and four years old, but also

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[9] *Bingaman v. State*, 76 P.3d 398 (Alaska App. 2003).

with C.S. when he was between one and three years old. Huettner testified to six different types of discipline.[10]

First, Huettner testified that, on one occasion, when W.G. was "breathing heavily through his nose and crying," Sadowski rolled up duct tape and stuck it in W.G.'s nose "so that he would breathe through his mouth."

Second, Huettner testified that Sadowski would often spank W.G. on his bottom with a wooden spoon. A few times, when doing so, he broke the wooden spoon, duct taped it back together, and continued to spank W.G. According to Huettner, on one occasion, Sadowski spanked W.G. so hard with the wooden spoon that he was bruised and bleeding on his bottom.

Third, Huettner testified that Sadowski hit W.G.'s head against a wall. Huettner heard a loud bang while W.G. and Sadowski were both upstairs, and when she went upstairs, she saw a circular water mark on the wall. Sadowski told her that he had "picked [W.G.] up with his hands covering both of his ears by his head, and slammed his head against the wall." Sadowski apologized to Huettner and said he felt badly for what he had done.

Fourth, as to both W.G. and C.S., Huettner testified that Sadowski would regularly put cayenne pepper in their mouth or in their food if they did not eat their dinner fast enough.

Fifth, Huettner testified that, if W.G. refused to go to bed, Sadowski would make W.G. stand up in the hallway, sometimes multiple times a week. A few nights, W.G. stood up in the hallway "all night long." If Sadowski saw that W.G. was not standing in the hallway, he would make W.G. get back up. Huettner testified that "[W.G.] would always . . . refuse to answer [Sadowski when he asked if W.G. was ready to go to bed] . . . because [W.G.] was scared to death of Mr. Sadowski."

[10] Huettner testified at the evidentiary hearing to two additional types of discipline, but she did not repeat this testimony at trial.

Finally, Huettner testified that Sadowski duct taped C.S.'s arms to his sides. C.S. had a rash that he would scratch constantly, and Sadowski taped his arms to prevent him from scratching. Sadowski taped directly to C.S.'s skin, and C.S. cried when Huettner removed the tape.

The State argued that the court should admit these prior acts under Evidence Rule 404(b)(1) to show absence of mistake or accident. The State again argued that this was a permissible purpose because Sadowski told investigators that C.S.'s injuries in this case were accidental.

Sadowski argued that the scope of the evidence was too broad and would "confuse the issues and distract the jury from the central questions of the case" and instead become a referendum on Sadowski as a parent and whether he had engaged in overzealous discipline that fell short of assaultive conduct.

The State also argued that the evidence should be admitted under Rule 404(b)(4).

Sadowski argued that the incidents to which Huettner testified were inadmissible under Rule 404(b)(4) because they were not "crimes," as required by the rule, but rather examples of "overzealous parental discipline." Sadowski acknowledged, however, that it was a "far closer question on the . . . allegations of having struck the child."

The prosecutor maintained that each of the incidents constituted at least a fourth-degree assault, and that the court could infer that the children suffered physical pain.

The superior court ruled that all of the incidents were crimes of domestic violence and were admissible under Rule 404(b)(4). The court noted that "[t]here was testimony by Ms. Huettner about [W.G.'s] fear of Mr. Sadowski." The court also stated that "the removal of the tape would cause pain and likely cause fear in the child."

Analyzing the *Bingaman* factors, the court found that the prior acts shared a situational similarity in that they all involved some act by the child precipitating a

harsh response by Sadowski. The court found that the harshness of the discipline — which escalated into abuse — was consistent with the State's theory that Sadowski's conduct escalated in severity. The court found that the incidents involved similar conduct to the charged conduct in that both involved excessive violence with children. The court noted the dispute between the parties as to whether Sadowski's conduct was intentional or accidental, and concluded that the prior acts were relevant to that question.

The court acknowledged its obligation to ensure that Sadowski was being tried for the crime charged and "not for things that [he] might have done on other occasions." The court concluded, however, that the testimony would not consume an inordinate amount of time at trial, and that it would not cause a jury to find Sadowski guilty based on improper grounds. The court also admitted the prior acts evidence under Evidence Rule 404(b)(1).

At trial, the State called Bethany Huettner and then Jamie Musgrave to testify about Sadowski's past acts. Before Huettner's testimony about the prior acts, the court gave the following instruction to the jury regarding the evidence:

> You're about to hear evidence that the defendant may have engaged in conduct other than the conduct for which he is on trial for. If you find that the defendant engaged in this other conduct, evidence of the defendant's other acts is never sufficient standing alone to justify the defendant's conviction of the crimes charged in this case. It is the government's burden to prove beyond a reasonable doubt that the defendant committed the crimes currently charged. This cannot be done simply by showing that the defendant has committed similar acts in the past.

The court gave a similar written instruction to the jury at the close of trial. [11]

During his testimony, Sadowski addressed some of the prior acts introduced by the State. He testified that Huettner herself had used military punishment

[11] The jury was not given a specific Rule 404(b)(1) instruction.

techniques that she learned from a neighbor, including wall-sits, flutter kicks, and push-up positions.[12]

Sadowski testified that he made W.G. stand in the hallway when he would not go to bed "a few times." He testified that two or three times, when W.G. would not eat dinner, he made W.G. eat cayenne pepper from a spoon. (He testified that he never made C.S. eat cayenne pepper.)

Sadowski denied ever slamming W.G.'s head against the wall. Rather, he asserted that the loud bang Huettner heard was Sadowski hitting his hand against the wall.

Sadowski acknowledged that he spanked W.G. with a wooden spoon, but did not do so often. He testified to one time when he caused bruises, but said he never caused bleeding and never broke the spoon while spanking.

With respect to his use of duct tape, Sadowski testified that he once put duct tape in W.G.'s nose when he was crying to stop snot coming out of his nose. He testified that he never duct-taped C.S.'s arms to his sides to prevent him from scratching.

As part of the State's closing argument, the prosecutor asserted that Sadowski's past acts showed that Sadowski had a temperament consistent with someone who could commit the violent conduct that caused C.S.'s death.

Why we affirm Sadowski's conviction

On appeal, Sadowski challenges the admission of the prior bad act evidence. First, Sadowski argues that the superior court erred in evaluating the admissibility of the evidence under Evidence Rule 404(b)(4) instead of Evidence

[12] On cross-examination, Huettner acknowledged that she and Sadowski had gotten advice from their neighbors about using military positions as punishment, including push-ups and wall-sits. She acknowledged that she used this form of punishment.

Rule 404(b)(2). Sadowski argues that Rule 404(b)(2) applies over Rule 404(b)(4) because it is a "more specific rule" for cases involving child abuse. Second, Sadowski argues that, even if Rule 404(b)(4) applies, the evidence was inadmissible under that rule, as well as under Rule 404(b)(2) and Rule 404(b)(1).

As an initial matter, we note that because the prosecutor relied on evidence of the prior acts for propensity purposes, and because the prior acts instruction given to the jury did not limit the jury's use of the prior bad acts evidence to permissible Rule 404(b)(1) purposes, it would be improper for this Court to affirm the superior court's ruling solely on Rule 404(b)(1) grounds. We therefore decline to consider the propriety of the court's ruling admitting the prior bad acts under Rule 404(b)(1). Instead, we address each of Sadowski's other claims in turn.

The intersection between Alaska Evidence Rules 404(b)(2) and 404(b)(4)

As a general matter, under Evidence Rule 404(b)(1), evidence of a defendant's other acts is not admissible to prove the defendant's character for committing such acts and to show that, on the occasion in question, the defendant acted in conformity with that character. However, the legislature has enacted several exceptions to this general bar on the use of propensity evidence.[13]

Alaska Evidence Rule 404(b)(2) sets out one exception — applicable to cases involving the physical or sexual abuse of a minor. In such cases, Rule 404(b)(2) authorizes the admission of "other acts by the defendant toward the same or another child" if the prior offenses are "similar to the offense charged" and were "committed upon persons similar to the prosecuting witness."[14]

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[13] *See* SLA 1988, ch. 66, § 9 (enacting subsection (b)(2)); SLA 1994, ch. 116, § 2 (enacting subsection (b)(3)); SLA 1997, ch. 63, § 22 (enacting subsection (b)(4)).

[14] Alaska Evidence Rule 404(b)(2) formerly had a ten-year lookback period, but this was eliminated by the legislature in 2013. SLA 2013, ch. 43, § 44.

Alaska Evidence Rule 404(b)(4) sets out another exception — applicable "[i]n a prosecution for a crime involving domestic violence," as defined in AS 18.66.990. In such cases, Rule 404(b)(4) authorizes the admission of "evidence of other crimes involving domestic violence by the defendant against the same or another person."

Even if evidence satisfies the technical requirements of Rule 404(b)(2) or Rule 404(b)(4), a trial court must still evaluate whether the evidence is more prejudicial than probative as a prerequisite to admissibility.[15] In *Bingaman v. State*, this Court set out six factors for trial courts to consider when evaluating the admissibility of prior bad acts evidence under Evidence Rules 404(b)(2)-(4): (1) the strength of the evidence of the prior act, (2) the character trait the evidence tends to prove, (3) the relevance of the character trait to any material issue in the case, (4) how strongly the material issue is disputed, (5) whether the evidence will require an inordinate amount of time to present, and (6) the likelihood that the evidence will lead the jury to decide the case on improper grounds.[16]

Sadowski argues that Rules 404(b)(2) and 404(b)(4) were intended to be mutually exclusive. He contends that Rule 404(b)(2) is a "more specific rule" as applied

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[15] *Bingaman v. State*, 76 P.3d 398, 416 (Alaska App. 2003) ("[W]henever the government offers evidence of a defendant's other bad acts under Evidence Rules 404(b)(2), (b)(3), or (b)(4), trial judges *must* conduct a balancing under Evidence Rule 403 and *must* explain their decision on the record."); Alaska R. Evid. 403 ("Although relevant, evidence may be excluded if its probative value is outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.").

[16] *Bingaman*, 76 P.3d at 415-16; *see also Leopold v. State*, 278 P.3d 286, 290 (Alaska App. 2012) (requiring trial judges to analyze the *Bingaman* factors when deciding whether to admit evidence of a defendant's prior acts for propensity purposes under Alaska Evidence Rule 404(b)(3)); *Cordell v. State*, 2018 WL 6120201, at *3 (Alaska App. Nov. 21, 2018) (unpublished) (noting that the *Bingaman* factors apply to Evidence Rules 404(b)(2), (b)(3), and (b)(4)).

to cases of physical abuse against a child and thus should apply over the more general Rule 404(b)(4).[17] In particular, Sadowski notes that Rule 404(b)(2) requires two findings that are not expressly required under subsection (b)(4): the prior act must be "similar" to the charged offense, and the prior act must have been committed against a person "similar to the prosecuting witness."

It is true that Rule 404(b)(4) does not contain these express requirements. But in *Bingaman*, we explained that "evidence of another act of domestic violence offered under Rule 404(b)(4) will generally have a probative force proportional to the similarity between this other act and the act that the defendant is currently charged with committing."[18] Accordingly, we required trial courts to consider the similarity between the prior act evidence and the currently charged offense when analyzing the admissibility of propensity evidence under Rules 404(b)(2)-(4) — *i.e.*, "whether the defendant's other acts demonstrate the same type of situational behavior as the crime currently charged."[19] It is therefore not clear that Rule 404(b)(2) truly is narrower than Rule 404(b)(4) in the way Sadowski contends.

Moreover, in at least one way, Rule 404(b)(4) is more specific than Rule 404(b)(2) — Rule 404(b)(4) requires the prior act to qualify as a "crime involving domestic violence" under AS 18.66.990. Indeed, one of the arguments Sadowski's trial attorney raised against admission of the evidence under Rule 404(b)(4) was that several of the prior acts did not actually constitute "crimes."

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[17] *See Lamkin v. State*, 244 P.3d 540, 541 (Alaska App. 2010) (explaining the rule of statutory construction that "where one statute deals with a subject in general terms and another deals with a part of the same subject in more detail, the two should be harmonized if possible, but if there is any conflict, the more specific statute will prevail" (quoting *Waiste v. State*, 808 P.2d 286, 289 (Alaska App.1991))).

[18] *Bingaman*, 76 P.3d at 415.

[19] *Id.*

Sadowski does not point to any specific discussion in the legislative history about the interplay between the two rules. But relying on our discussion of the legislative history of subsection (b)(4) in *Bingaman*,[20] he contends that subsection (b)(4) was intended primarily to address "recanting witness testimony and the cycle of violence," which "is not relevant in the prosecution of physical abuse of a child."

To the extent Sadowski is suggesting that the legislature intended subsection (b)(4) to be *limited* to cases of intimate partner violence, his claim is contrary to the broad definition of "domestic violence" that the legislature employed in enacting Rule 404(b)(4).[21] We have previously recognized the expansiveness of this definition, which includes crimes of assault committed by a parent against their child.[22] We also note that the State's theory in this case was principally that Sadowski *was* engaged in an escalating pattern of violence against his son, C.S., with whom he shared a household, and thus, he seems to fit squarely within the scope of that rule.

Relying on dicta from our decision in *Carpentino v. State*, Sadowski argues that authorizing the admission of evidence under Rule 404(b)(4) in cases of physical assault of a minor would render Rule 404(b)(2) meaningless. But the portion

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[20] *See id.* at 405-08.

[21] *Carpentino v. State*, 42 P.3d 1137, 1140 (Alaska App. 2002) (noting that the list of crimes set out in AS 18.66.990 "obviously encompasses a broader range of conduct than physical assault upon a spouse or live-in companion"); *see also Bingaman*, 76 P.3d at 402 (explaining that Rule 404(b)(4) expressly adopted the definition of "crime involving domestic violence" contained in AS 18.66.990).

[22] AS 18.66.990(3), (5); *see also Carpentino*, 42 P.3d at 1140-41 (describing the legislature's definitions of "domestic violence" and "household member" as "expansive"); *Bingaman*, 76 P.3d at 406-07 (explaining that the legislature defined domestic violence "in a special and wide-ranging way, quite divorced from its everyday meaning [understood as assault committed by one domestic partner against another]"). The definition of "household member" includes eight different relationships, including "adults or minors who live together" and "adults or minors who are related to each other up to the fourth degree of consanguinity." AS 18.66.990(5)(B); AS 18.66.990(5)(E).

of *Carpentino* on which Sadowski relies was addressing cases involving *sexual* abuse of a minor:

> If the statutory definition of "domestic violence" is taken at face value and applied to Evidence Rule 404(b)(4) . . . then subsection (b)(4) would seemingly make Evidence Rule 404(b)(2) obsolete *in prosecutions for sexual abuse of a minor*.[23]

The *Carpentino* court was concerned that, because the definition of "household member" (for purposes of defining "crime involving domestic violence") includes "adults or minors who . . . have engaged in a sexual relationship," any sexual assault of a minor will (by definition) constitute "domestic violence."[24]

But as we recently explained in *Anderson v. State*, not all acts of sexual abuse of a minor will constitute a "sexual relationship" for purposes of the definition of "household member."[25] Moreover, the definition of "household member" does not create the same potential problem of redundancy in cases of physical assault of a minor because the definition of "household member" does not overlap with the elements of that crime.

We reached a similar conclusion in *Kasgnoc v. State*, in which we addressed the interplay between Evidence Rule 404(b)(3) (the third exception to the bar on propensity evidence set out in Rule 404(b), allowing propensity evidence in sexual

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[23] *Carpentino*, 42 P.3d at 1141 (emphasis added).

[24] *Id.* at 1142.

[25] *See Anderson v. State*, __ P.3d __, 2024 WL 1337038, at *5-6 (Alaska App. Mar. 29, 2024); *cf. Kasgnoc v. State*, 448 P.3d 883, 887 (Alaska App. 2019) ("[A] single sexual act does not establish a 'sexual relationship' for purposes of the definition of 'household member.' Thus, absent the existence of one of the other statutory qualifying relationships (like a familial relationship, as here), a sexual assault cannot be considered a crime of domestic violence for purposes of Rule 404(b)(4) by virtue of a single sexual act." (citations omitted)).

assault prosecutions) and Rule 404(b)(4).[26] In *Kasgnoc*, a sexual assault prosecution, the trial court ruled that Rule 404(b)(3) governed to the exclusion of Rule 404(b)(4) because Rule 404(b)(3) was specifically applicable to prosecutions for sexual assault.[27] But we held that there was clear overlap between the two rules where the defendant and the complaining witness were also "household members," as defined in AS 18.66.990.[28] In those instances, if the defendant was raising a consent defense to the charge of sexual assault (for purposes of Rule 404(b)(3)) and the prior bad act qualified as a "crime involving domestic violence" (for purposes of Rule 404(b)(4)), then the prior bad act evidence was potentially admissible under both rules.[29]

Similarly, Evidence Rules 404(b)(2) and 404(b)(4) would both apply in a case where, as here, the defendant — charged with physical abuse of a minor who is a "household member" — has committed prior acts of abuse of a minor, where the defendant and the minor involved in those prior incidents were also "household members" as defined by AS 18.66.990. (The question of whether the prior acts are actually admissible is, of course, subject to evaluation under Evidence Rules 402 and 403.)

Thus, for the reasons we have explained, we conclude that Evidence Rules 404(b)(2) and 404(b)(4) are overlapping rather than mutually exclusive. The superior court therefore did not err in analyzing Sadowski's prior acts under Rule 404(b)(4).

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[26] *Kasgnoc*, 448 P.3d at 886-87. Evidence Rule 404(b)(3) provides, in relevant part, "In a prosecution for a crime of sexual assault in any degree, evidence of other sexual assaults or attempted sexual assaults by the defendant against the same or another person is admissible if the defendant relies on a defense of consent."

[27] *Id.* at 885-86.

[28] *Id.* at 887.

[29] *Id.*

Analysis of the prior bad acts under Alaska Evidence Rule 404(b)(4)

On appeal, Sadowski argues that, even if Evidence Rule 404(b)(4) applies to his case (which we have determined that it does), the evidence of his prior bad acts was inadmissible under that rule. In particular, he argues that the rule only applies to evidence of other *crimes* of domestic violence, but that the prior acts involving C.S. and W.G. were not crimes. He also argues that the prior acts were not demonstrative of the "same type of situational behavior as the crime currently charged" — *i.e.*, they were so dissimilar from the current offense that they were not related to any relevant character trait.[30]

Having reviewed the record, we conclude that there was sufficient evidence to establish that at least four of the prior acts constituted "crimes involving domestic violence,"[31] and that the superior court could reasonably find that these acts were sufficiently similar to the charged conduct to qualify for admission under Rule 404(b)(4).[32] These acts include the two acts to which Musgrave (C.S.'s babysitter) testified and two of the six acts to which Huettner (C.S.'s mother) testified. Musgrave

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[30] *Bingaman v. State*, 76 P.3d 398, 415 (Alaska App. 2003).

[31] *See Bennett v. Anchorage*, 205 P.3d 1113, 1117 (Alaska App. 2009) (explaining that, where a factual dispute exists as to the occurrence or nature of the prior act — such as whether the prior act was an act of domestic violence — the dispute must be submitted to the jury "as long as there is enough evidence for a reasonable juror to find the fact established").

[32] We further conclude that these four prior acts were separately admissible under Evidence Rule 404(b)(2). Sadowski contends that these prior acts were inadmissible under subsection (b)(2) because they were not sufficiently similar to the charged offense in this case. Although the superior court did not expressly rule on the admissibility of the prior acts under Rule 404(b)(2), the court analyzed each *Bingaman* factor and in so doing, as we describe, expressly concluded that the prior acts shared a situational similarity with the charged offense. Thus, there is a sufficient basis in the record to establish that these four incidents were also admissible under Rule 404(b)(2). *See Kasgnoc*, 448 P.3d at 888 (noting that even though the trial court improperly applied Rule 404(b)(3) to the exclusion of Rule 404(b)(4), the court's *Bingaman* analysis was materially the same).

testified that she twice noticed bruises on C.S. — once on his face and once on his bottom. She testified that, after she confronted Sadowski about this bruising, Sadowski told her that he caused the bruises by "grabb[ing] [C.S.'s] face too hard" and by "spank[ing] him too hard."

Huettner also testified to physically assaultive acts by Sadowski. Huettner testified that Sadowski hit W.G.'s head against the wall, causing a sound loud enough to hear downstairs. Huettner testified that, when she asked Sadowski what had happened, he told her that he picked W.G. up by his head and "slammed" his head against the wall. (Sadowski later denied this at trial.) Huettner also testified that Sadowski spanked W.G. so hard with a wooden spoon as to cause bruising and bleeding.

Each of these incidents involved an act of physical aggression and/or resulting injury similar to the bruising alleged by the State in this case. And the evidence presented regarding each prior incident was sufficient for a reasonable juror to conclude that it constituted a crime involving domestic violence — namely, fourth-degree assault.[33] Sadowski contends that these prior acts were so much less severe in intensity as to be situationally dissimilar for purposes of admission under Rule 404(b)(4). But as the superior court noted, while the consequences in this case were distinct and obviously more severe, all of the acts involved harsh treatment in the form of physical discipline. We conclude that the evidence was relevant, and that the superior court could reasonably find these prior incidents situationally similar.

And ultimately, having reviewed the court's *Bingaman* analysis, we conclude that the court did not abuse its discretion in admitting evidence of these four

[33] *See* AS 11.41.230(a)(1) ("A person commits the crime of assault in the fourth degree if that person recklessly causes physical injury to another person."); AS 11.81.900(b)(48) (defining "physical injury" as "a physical pain or an impairment of physical condition"); *see also* AS 18.66.990(3)(A) (defining "crime involving domestic violence" as including any "crime against the person under AS 11.41" when committed against a "household member"); *Bennett*, 205 P.3d at 1117.

incidents. The central question that the jury needed to resolve in this case was the cause of C.S.'s death — *i.e.*, was the charged conduct accidental or the result of C.S. falling, as Sadowski alleged, or was Sadowski criminally negligent in causing C.S.'s burns and blunt force injuries, either of which resulted in C.S.'s death, as the State alleged.[34] The manner in which Sadowski disciplined his children was therefore a material issue that tended to support the State's theory that Sadowski had a "history of excessive physical discipline" and caused the injuries to C.S. when his disciplinary tactics escalated in severity.

The four remaining incidents present a closer question. These four incidents include: Huettner's testimony that Sadowski (1) put rolled-up duct tape in W.G.'s nose to force him to breathe through his mouth, (2) put cayenne pepper in W.G. and C.S.'s mouths or in their food when they refused to eat dinner, (3) forced W.G. to stand in the hallway for long periods for refusing to go to bed, and (4) duct-taped C.S.'s arms to his sides to prevent him from continuing to scratch a rash.

Although these acts related to the same material issue as the prior four acts (Sadowski's methods of disciplining his children), these acts did not involve the same level of physical abuse involved in the other incidents. It is not clear whether these prior acts would therefore rise to the level of a "crime" involving domestic violence.[35] And there was a risk that these acts would be seen simply as cruel or excessive discipline rather than as fitting into a larger pattern of escalating abuse, as the State alleged.

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[34] This was the minimum standard the State needed to show in order to prove Sadowski's guilt under AS 11.41.100(a)(2) for first-degree murder. The State went further in arguing that Sadowski *intentionally* caused C.S.'s injuries, and the jury ultimately found him guilty of second-degree murder under AS 11.41.110(a)(1) (providing that a person commits second-degree murder if, "with intent to cause serious physical injury to another person or knowing that the conduct is substantially certain to cause death or serious physical injury to another person, the person causes the death of any person").

[35] *See* Alaska R. Evid. 404(b)(4) (relying on the definition of "domestic violence" set out in AS 18.66.990(3)).

In *Bingaman*, we explained that it would be "improper for [a] jury to convict a defendant because the jurors conclude that, regardless of whether the defendant is guilty of the crime currently charged, the defendant deserves to be punished" for their prior acts or "should be imprisoned to prevent more such crimes in the future."[36] Similarly, it would be improper for the jury to conclude that, "because the defendant is dangerous, wicked, or despicable, the defendant is not entitled to the normal protections of the law."[37] We therefore emphasized that "[f]undamentally, it is the role of the trial judge to ensure 'that the defendant is tried for the crime currently charged — not for the things that the defendant might have done on other occasions, and not for the kind of person that the defendant might be.'"[38]

Here, even assuming there was enough evidence for a reasonable juror to find that the four remaining prior acts rose to the level of assaultive conduct,[39] there was a risk that the acts could cause the jury to draw an improper conclusion about Sadowski, and it was unnecessary for the superior court to admit evidence of these four prior acts when the court had already admitted evidence of four other prior acts that more clearly presented similar, relevant prior incidents of physical violence. We therefore question whether the superior court properly exercised its important gatekeeping function in allowing the State to present evidence of all eight of Sadowski's prior bad acts.

We nonetheless conclude that, even if the superior court should have limited or excluded evidence of these four acts, any error was harmless given the facts of this case. As we have already concluded, the court did not abuse its discretion in

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[36] *Bingaman*, 76 P.3d at 414-15.

[37] *Id.* at 415.

[38] *Komakhuk v. State*, 460 P.3d 797, 805 (Alaska App. 2020) (quoting *Bingaman*, 76 P.3d at 414).

[39] *See Bennett v. Anchorage*, 205 P.3d 1113, 1117 (Alaska App. 2009).

admitting evidence of the four incidents involving allegations of clear physical assault or injury. Because evidence of the four remaining incidents was so different in kind and so distinct from the type of injuries alleged in this case, its impact was likely to be that much less.

Moreover, evidence of the remaining four incidents must be understood in context. To prove the charge of first-degree murder, the State had to establish that Sadowski knowingly engaged in conduct directed toward C.S. and, with criminal negligence, inflicted serious physical injury on C.S. by at least two separate acts, one of which resulted in C.S.'s death.[40] A person acts with "criminal negligence" when "the person fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation."[41]

Sadowski acknowledged that he burned C.S., and that he should have sought medical care for him sooner. Sadowski's attorney urged the jury to convict Sadowski of either manslaughter or criminally negligent homicide — essentially conceding that Sadowski had acted with at least criminal negligence by failing to seek medical care for C.S., though denying that Sadowski acted with a culpable mental state when causing C.S.'s burns.

Thus, the real question was whether Sadowski caused C.S.'s bruises, as the State alleged, and whether he acted with criminal negligence in inflicting serious physical injury "by at least two separate acts," one of which resulted in C.S.'s death. The four prior incidents involving physical assault or bruising were much more probative on this point.

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[40] *See* AS 11.41.100(a)(2).

[41] AS 11.81.900(a)(4).

Moreover, C.S.'s injuries were extensive, and the evidence against Sadowski was strong. C.S. had at least fifty-nine blunt force injuries, including subarachnoid hemorrhage points, and burning so extensive that people who saw C.S., including Valles, thought he should have received immediate medical attention. Two experts testified that C.S.'s extensive bruising and thermal injuries were inconsistent with Sadowski's assertion that he had burned C.S. with hot water during the course of a shower, or that C.S. had injured himself when falling in the shower or engaging in general horseplay. Indeed, Sadowski himself told the police that he knew he had "fucked up" and that he should have sought medical care for C.S. sooner. In addition, Sadowski was C.S.'s sole caretaker at the time of his death, and there was no explanation for why he did not notice C.S.'s bruises sooner.

In this context, we do not believe that evidence that Sadowski used cayenne pepper and forced standing as disciplinary techniques, and put duct tape on C.S.'s arms and in W.G.'s nose, was a deciding factor in the case. These acts fall much lower on the spectrum of behavior than was alleged in this case — and that was exemplified by the properly admitted prior acts. Indeed, as the court acknowledged at sentencing, by finding Sadowski guilty of two counts of second-degree murder, the jury found that Sadowski acted "with intent to cause serious physical injury" to C.S. or knowing that his conduct was "substantially certain to cause death or serious physical injury" to C.S., and that he engaged in conduct "under circumstances manifesting an extreme indifference to the value of human life."[42]

We acknowledge and reiterate that trial judges must serve a gatekeeper role to ensure that other bad acts have case-specific relevance and do not overwhelm and overtake the State's case regarding the charged acts.[43] But having reviewed the

[42] AS 11.41.110(a)(1)-(2).

[43] *See Bingaman*, 76 P.3d at 417.

record in this case, we conclude that the charged acts remained the focus of the State's case and any error in admitting some of the prior bad acts evidence in this case was harmless.

Why we reject Sadowski's challenges to his sentence

Sadowski faced a sentencing range of 20 to 99 years for his first-degree murder conviction.[44] At the time of C.S.'s death, Sadowski was twenty-seven years old and had no prior convictions. He had been honorably discharged from the military when he began to care for C.S. full-time.

At the start of its sentencing remarks, the court reviewed the evidence presented at trial. The State proposed five aggravating factors that it argued applied by analogy.[45] The court did not directly rule on all the aggravators, but made the following findings.

Although the court declined to find that Sadowski had acted with deliberate cruelty, the court found that C.S. was a highly vulnerable victim. The court also found that Sadowski had engaged in a past pattern of "harsh and assaultive-type discipline" against C.S. and W.G. and recounted the evidence of the prior bad acts that had been introduced at trial.

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[44] Former AS 12.55.125(a) (2015).

[45] Aggravating factors only apply to unclassified felonies by analogy. *See Allen v. State*, 56 P.3d 683, 684 (Alaska App. 2002). The State proposed the following five aggravators under AS 12.55.155 — (c)(2), Sadowski's conduct during the offense manifested deliberate cruelty; (c)(5), Sadowski knew or reasonably should have known that C.S. was particularly vulnerable; (c)(8), Sadowski's prior criminal history included repeated instances of assaultive behavior; (c)(10), the conduct constituting the offense was among the most serious conduct included in the definition of the offense; and (c)(18)(A), the offense was a felony crime specified in AS 11.41 and was committed against a member of the social unit living in the same dwelling as Sadowski.

With respect to the State's assertion that the offense was "among the most serious included in the definition of the offense,"[46] the court found that the injuries to C.S. were "horrific" and that Sadowski's defense was "implausible." The court rejected the notion that the injuries to C.S. were accidental and found that Sadowski had engaged in "severe abuse" against C.S. that resulted in his death. The court further found that Sadowski's conduct in inflicting the injuries and burns and in failing to timely summon medical care was "shocking."

The court then engaged in an analysis of the *Chaney* sentencing criteria.[47] Following these remarks, the court imposed a sentence of 90 years to serve.

On appeal, Sadowski notes that the superior court made several references to the Department of Corrections (DOC) during its evaluation of the *Chaney* criteria. For example, the court stated that getting to the "root cause" of what occurred "will be a task of DOC" and that "the genesis of the conduct . . . needs to be addressed, and once that is addressed and determined, then the system will be in a much better situation to determine the need for isolation." Sadowski argues that these references indicate that the court was improperly delegating its consideration of certain sentencing goals to DOC, rather than conducting an independent evaluation of those factors.[48] We disagree.

Although the court referenced DOC having to determine the underlying cause of Sadowski's conduct in connection with its discussion of rehabilitation, deterrence, and isolation, each reference derived from the same underlying observation: that it was unclear why Sadowski had acted the way he did. As the superior court's remarks implicitly recognized, the absence of any clear evidence on this point made it difficult to analyze these *Chaney* criteria.

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[46] AS 12.55.155(c)(10).

[47] *State v. Chaney*, 477 P.2d 441, 444 (Alaska 1970), *as codified in* AS 12.55.005.

[48] Sadowski's arguments regarding his sentence are limited to legal claims, and he does not challenge his sentence as excessive.

The record does not support the view that the court was delegating its duty to analyze those criteria to DOC. Instead, the remainder of the court's sentencing comments make clear that the court was independently analyzing and assessing the *Chaney* criteria based on the limited record before it.[49] For example, the court made findings that Sadowski's rehabilitative potential was "guarded at best," and that isolation was "an important consideration" because of the "ghastly" nature of the crime and the absence of any evidence as to why the crime occurred.

Under these circumstances, the court's references to DOC having to determine the "root cause" of what occurred and address the "genesis of the conduct" reflect a realistic assessment of the task that awaited DOC when Sadowski was remanded to its custody, not a delegation of the court's sentencing authority to DOC.[50]

Sadowski also notes that, after imposing a 90-year term, the court announced Sadowski's discretionary parole eligibility. Sadowski argues that this comment demonstrates that the superior court improperly considered the impact that his parole eligibility would have on reducing the overall time he would be required to serve on his sentence.[51]

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[49] *See Hamilton v. State*, 59 P.3d 760, 772 (Alaska App. 2002) (recognizing that "a sentencing judge remains obliged . . . to assess the seriousness of the defendant's crime, the prospects for the defendant's rehabilitation, and the extent to which imprisonment may be needed to deter the defendant from future acts of lawlessness and/or to protect the public until the defendant is rehabilitated[,]" but "[w]hen a defendant declines to offer evidence on these issues, the sentencing judge must base his or her decision on the existing record").

[50] *See* AS 33.30.011(a)(3)(F) (requiring the Department of Corrections to establish programs that "provide for the rehabilitation and reformation of prisoners").

[51] *See Thomas v. State*, 413 P.3d 1207, 1212 (Alaska App. 2018) (recognizing that, "[b]ecause release on discretionary parole is so difficult to obtain, a sentencing judge is not permitted to consider a defendant's eligibility for discretionary parole as a factor that is likely to reduce the jail time that the defendant will actually serve" (citing *Jackson v. State*, 616 P.2d 23, 24-25 (Alaska 1980))).

But we do not view the court's statement regarding Sadowski's discretionary parole eligibility in this manner. We note that the court informed Sadowski of both his eligibility for discretionary parole as well as his eligibility for mandatory parole at the same time, after it declared Sadowski's term of imprisonment. We view these pronouncements as simply part of the court's truth-in-sentencing responsibilities,[52] rather than as factors the court considered in determining the appropriate length of Sadowski's sentence.

Accordingly, we reject Sadowski's claims of sentencing error.

Conclusion

The judgment of the superior court is AFFIRMED.

[52] Under AS 12.55.025(a)(3) and Alaska Criminal Rule 32.2(c)(2), a sentencing court imposing a sentence for a felony offense must inform the defendant of the approximate minimum term of imprisonment the defendant must serve before becoming eligible for release on discretionary and mandatory parole, if applicable. This bare pronouncement is "for information purposes only" and "do[es] not form a basis for review or appeal of the sentence imposed." AS 12.55.025(j).