IN THE COURT OF APPEALS OF THE STATE OF ALASKA

DUSTIN DURRAN PETERS, Appellant, v. STATE OF ALASKA, Appellee.	Court of Appeals No. A-12095 Trial Court No. 3PA-13-3222 CR MEMORANDUM OPINION No. 6783 — April 3, 2019

Appeal from the Superior Court, Third Judicial District, Palmer, Kari Kristiansen, Judge.

Appearances: Paul E. Malin, Anchorage, under contract with the Public Defender Agency, and Quinlan Steiner, Public Defender, Anchorage, for the Appellant. Donald Soderstrom, Assistant Attorney General, Office of Criminal Appeals, Anchorage, and Jahna Lindemuth, Attorney General, Juneau, for the Appellee.

Before: Mannheimer, Chief Judge, Allard, Judge, and Suddock, Superior Court Judge.[*]

Judge MANNHEIMER.

[*] Sitting by assignment made pursuant to Article IV, Section 16 of the Alaska Constitution and Administrative Rule 24(d).

Dustin Durran Peters appeals his conviction for first-degree burglary.[1] He contends that the trial judge improperly allowed the State to introduce evidence that Peters committed three other residential burglaries nearly ten years before the events in the present case. For the reasons explained in this opinion, we conclude that the trial judge did not abuse her discretion when she allowed the State to introduce this evidence, and we therefore affirm Peters's conviction.

Peters raises one additional issue on appeal. Peters argues that the trial court erred when it imposed various probation conditions without making case-specific factual findings. Because Peters failed to object to any of these conditions in the trial court proceedings, our review is limited to plain error.[2] We find no plain error here.

Underlying facts

Peters was convicted of committing a residential burglary in the early morning hours of November 25, 2013. Homeowners Gloria Sackett and Chet Tanner were awakened around 4:00 in the morning by the sound of their dog barking inside their house. When Tanner left the bedroom to investigate, he encountered a stranger in his living room — a man later identified as Dustin Peters.

Tanner told Peters, "I think you have the wrong house." Peters replied, "I'm waiting for her." When Tanner asked Peters what he was talking about, Peters responded by asking Tanner if his name was "Shawn". At this point, Ms. Sackett entered the living room and asked Tanner if she should call the state troopers. Peters responded, "Did she say troopers?", and then he put his hands up. Peters told Tanner and Sackett

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[1] AS 11.46.300(a)(1).

[2] *State v. Ranstead*, 421 P.3d 15, 23 (Alaska 2018).

that he had the wrong house, and he declared that he had not stolen anything. Peters urged Tanner and Sackett not to call the police — and then he ran out the door.

After Peters ran from the house, Tanner contacted the authorities. He explained what had happened, and he provided a description of Peters. Alaska State Trooper Daniel Cox drove to Tanner and Sackett's neighborhood to investigate.

Trooper Cox encountered Peters coming down a driveway — that is, walking away from another house — on a nearby street. Peters was carrying a metal bar in a long, thin pocket of his clothes. When Cox spoke to Peters and asked him what he was doing, Peters replied that he was just "walking around everywhere". Peters told Cox that he was searching for a friend's house, and that he was carrying the metal bar for protection against animals.

When Cox asked Peters where this friend lived, Peters did not give Cox a direct answer. Instead, Peters told Cox that "so far, [he had] knocked on three different doors, after [he] accidentally walked into one [house]." When Cox asked Peters how it was possible to "accidentally" walk into someone's house, Peters responded that he had thought it was his friend's house.

Around this time, Trooper Peter Steen arrived to provide backup for Trooper Cox. Steen conducted a pat-down search of Peters's outer clothing. During this search, Steen felt something in the zipped chest pocket of Peters's overalls. Peters said that the object was his wallet, and he began to unzip the pocket. When Steen told Peters not to reach into his pocket, Peters smacked Steen's hands away, and then he took off running.

As Peters ran from the troopers, he threw various items out of his pockets. These items proved to be personal items, not stolen property. (Peters later explained that he had thrown these items from his pockets because he thought that he had drug paraphernalia in his pockets, and he did not want the troopers to find it.)

Peters was ultimately apprehended about a quarter- to half-mile away, and he was arrested. Following his arrest, Peters made a number of seemingly disconnected statements. He said that he had run from the troopers because he had challenged Trooper Steen to a foot race. He said that his nighttime entry into the Sackett/Tanner residence was not a trespass because Sackett and Tanner had not posted a "no trespassing" sign on their property, and also because Sackett and Tanner had never expressly asked him to leave the house. Peters also told the troopers that his sister had been killed a few weeks earlier, and that he was having trouble sleeping.

Following Peters's arrest, Trooper Cox returned to the residence where he had first contacted Peters, and he examined the driveway. Cox saw that there were fresh tracks in the snow on the driveway, and that these tracks circled the two vehicles parked in the driveway. Cox also saw that someone had disturbed the frost on the driver's side door of one of the vehicles. When Cox questioned the homeowner about this, the homeowner said that he had been asleep, and that he had not been aware that anyone was walking around in his driveway.

Based on this episode, Peters was indicted for first-degree burglary — *i.e.*, unlawful entry of the Sackett/Tanner dwelling with intent to commit theft.

Peters's defense at trial was that he had no intent to commit theft when he entered the Sackett/Tanner residence.

At trial, Peters testified that he had been using drugs that night, and that he was depressed by the recent death of his sister. Peters said that one of his friends, Shawn Ryherd, had also lost a sister, so Peters decided to go to Ryherd's house to talk to him. It turned out that Ryherd had, in fact, lived in Tanner and Sackett's house several years earlier: Sackett had purchased the house from Ryherd's mother.

However, Peters admitted that he had not seen Ryherd in many years, and Peters also admitted that he knew that Ryherd was currently serving in the military.

Peters also acknowledged that even if Ryherd had still been living at the house, it was not appropriate to walk into someone's home uninvited and unannounced at 4:00 in the morning.

To rebut Peters's claim of innocent intent, the superior court allowed the prosecutor to introduce evidence that Peters had been convicted of first-degree burglary in 2004, based on Peters's confession to participating in three residential burglaries.

The jury found Peters guilty of burglary in the present case, and Peters now appeals. Peters claims on appeal are that (1) the superior court committed error by allowing the State to introduce evidence of Peters's prior burglaries from 2004, and (2) that the superior court erred in imposing conditions of probation without making case-specific factual findings.

The law governing the admission of evidence of Peters's prior burglaries

Alaska Evidence Rule 404(b)(1) prohibits evidence of a defendant's other bad acts if the evidence "has no genuine purpose other than to show the defendant's character and the consequent likelihood that the defendant acted in conformity with that character during the episode being litigated". [3]

Typically, evidence that a person has committed a bad act will tend to reflect poorly on the person's character. But the question under Evidence Rule 404(b)(1) is whether the *only* relevance of the bad act is to prove the person's character — because Rule 404(b)(1) does not bar evidence of a person's other acts if the evidence is introduced for any valid purpose *other* than establishing character. [4]

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[3] *Smithart v. State*, 946 P.2d 1264, 1270-71 (Alaska App. 1997).

[4] *See Beaudoin v. State*, 57 P.3d 703, 707-08 (Alaska App. 2002); *Smithart*, 946 P.2d (continued...)

See Conley v. Alaska Communications Systems Holdings, Inc., 323 P.3d 1131, 1136 (Alaska 2014): "Alaska Evidence Rule 404(b)(1) ... provides [that] evidence of other ... 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." (Emphasis in the original.)

Thus, when the government offers evidence of a defendant's other acts, the trial judge must decide whether the evidence is being offered solely for the prohibited purpose of establishing the defendant's character or if, instead, the evidence truly has relevance for some other case-specific, non-character purpose.[5] If so, Evidence Rule 404(b)(1) does not bar the evidence — although the judge is still required by Evidence Rule 403 to assess whether the evidence should be excluded as unfairly prejudicial.[6]

One of the legitimate purposes for introducing evidence of a defendant's other bad acts is to prove the defendant's intent, in cases where intent is actively disputed.[7] But before a trial judge allows the government to introduce evidence of the defendant's other bad acts to prove the defendant's intent, the judge must evaluate whether intent is actually being disputed, given the other evidence at trial and the way the parties are litigating the case.[8] The judge must make this assessment in order to determine whether the proposed evidence truly has a case-specific relevance apart from

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[4] (...continued)
at 1270-71.

[5] *Linehan v. State*, 224 P.3d 126, 147 (Alaska App. 2010).

[6] *Id.*

[7] *See Freeman v. State*, 486 P.2d 967, 977-78 (Alaska 1971); *Willock v. State*, 400 P.3d 124, 127 (Alaska App. 2017).

[8] *See Belcher v. State*, 372 P.3d 279, 285 (Alaska App. 2016). In particular, see our discussion of what "intent" means in this context, *Belcher*, 372 P.3d at 283.

simply proving the defendant's characteristic willingness to engage in the charged criminal conduct.[9]

In Peters's case, the defense conceded that Peters had entered the Sackett/Tanner residence without permission in the middle of the night. The only actively contested issue was Peters's intent when he entered the residence.

To prove that Peters committed burglary, the State had to prove that Peters entered the house with the intent to commit a crime.[10] The prosecutor argued that Peters's commission of the burglaries in 2004 was relevant to this disputed issue, because Peters's commission of these prior burglaries tended to rebut the defense assertion that Peters entered the Sackett/Tanner residence for an innocent purpose (*i.e.*, in a misguided effort to contact a friend).

In other words, the prosecutor asserted that if Peters had committed residential burglaries in the past, these burglaries had a case-specific relevance to the issue of Peters's intent in the present case, apart from what the prior burglaries showed about Peters's character. And because of this case-specific, non-character relevance, the evidence was admissible under Evidence Rule 404(b)(1) — although the trial judge was still required to decide, under Evidence Rule 403, whether the evidence's potential for unfair prejudice outweighed its probative value.

Peters's argument that this is not the governing law

Peters argues that the analysis contained in the preceding section does not accurately state Alaska law. According to Peters, this view of Evidence Rule 404(b)(1)

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[9] *Id.*; *Willock*, 400 P.3d at 127.

[10] AS 11.46.300(a)(1).

is foreclosed by the Alaska Supreme Court's decision in *Oksoktaruk v. State*, 611 P.2d 521 (Alaska 1980), and by this Court's own decision in *Beekman v. State*, 706 P.2d 704 (Alaska App. 1985).

In *Oksoktaruk*, the defendant and a companion were found inside a business in the middle of the night. Following his arrest, Oksoktaruk told the police that he had entered the building to get warm and to sleep. Nevertheless, Oksoktaruk was charged with burglary (*i.e.*, breaking into the building to commit a crime).

At trial, Oksoktaruk's companion testified for the State, declaring that he and Oksoktaruk had entered the business with the intent to steal merchandise. Oksoktaruk did not testify at trial, but his exculpatory statement to the police was admitted into evidence. Over defense objection, the trial judge allowed the State to introduce evidence that Oksoktaruk had committed a prior burglary, under the rationale that the prior burglary rebutted Oksoktaruk's claim of innocent intent.

The supreme court concluded that the trial judge committed error by admitting this evidence, and the court reversed Oksoktaruk's conviction. The supreme court stated:

> When a [defendant's] prior act is relevant to prove a material fact, ... we have recognized that in certain instances [that] its probative value may be greater than its value in proving propensity, and may then outweigh its prejudicial impact. ... In this case[,] the trial judge found that intent was a contested issue, that the state needed the [evidence] of the prior burglary ... , and that the prejudicial impact of the prior burglary would not be such that the jurors' passions would be aroused against the defendant. We are in substantial disagreement with this assessment.
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> This court's decisions have consistently [taken] the view that, notwithstanding its many exceptions, the rule

> regarding evidence of prior crimes is a "rule of exclusion of evidence and not one of admission ... ." *See United States v. Burkhart*, 458 F.2d 201, 204 (10th Cir. 1972). If prior crimes were found admissible whenever offered to prove a fact classified as material to the prosecution's case, "the underlying policy of protecting the accused against unfair prejudice ... would evaporate through the interstices of the classification."

Oksoktaruk, 611 P.2d at 524. The supreme court then noted that there was no particular similarity between Oksoktaruk's earlier burglary and his current burglary. Based on these facts and this reasoning, the supreme court held that the trial judge should have excluded the evidence of Oksoktaruk's prior burglary. *Id.* at 525.

Five years later, in *Beekman v. State*, 706 P.2d 704 (Alaska App. 1985), this Court reversed a burglary conviction under similar circumstances — *i.e.*, where the State introduced evidence of the defendant's prior burglaries in order to rebut the defendant's assertion of innocent intent.

The defendant in *Beekman* broke into his neighbors' home: he used a metal tool to break a window of a pickup truck parked outside the house, and then he opened the garage door with the automatic door opener that he found in the truck. Beekman entered the house through the garage, and he was ultimately discovered in the master bedroom.[11] Beekman did not take anything of value from the house, but the State argued that this was because Beekman was apprehended quickly, before he had time to ransack the house.[12]

At trial, Beekman argued that he was not guilty of burglary because he had not acted with the intent to commit any crime. Beekman did not testify, but his attorney

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[11] *Beekman*, 706 P.2d at 704.

[12] *Id.* at 706.

presented evidence that Beekman was intoxicated at the time, and that Beekman's own house, which was located nearby, was similar in appearance to his neighbors' home.[13]

To rebut Beekman's defense of good-faith mistake and lack of criminal intent, the State sought to introduce evidence that Beekman had been adjudicated as a delinquent minor after confessing to three burglaries. The trial judge concluded that this evidence was relevant on the issues of intent and lack of mistake, and that the potential unfair prejudice of this evidence could be minimized through a limiting instruction to the jury. The judge therefore allowed the State to introduce this evidence.[14]

Even though Beekman actively raised the defenses of mistake and lack of criminal intent, this Court concluded that the trial judge committed error by allowing the State to introduce evidence of Beekman's earlier burglaries.[15]

As the *Beekman* opinion explains, this Court interpreted the supreme court's decision in *Oksoktaruk* "as creating a strong presumption against the use of evidence that the defendant has committed a prior burglary to show that he had an intent to steal in another burglary [case]."[16] We concluded that *Oksoktaruk* stood for the proposition that, "as a matter of law, the danger is generally too great that the jury will use the prior burglary conviction to conclude that the defendant has a propensity to commit burglaries."[17]

The supreme court's decision in *Oksoktaruk* represented an unusually restrictive reading of Evidence Rule 404(b). Other jurisdictions generally allow the

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[13] *Id.* at 704.

[14] *Id.* at 704-05.

[15] *Id.* at 706.

[16] *Ibid.*

[17] *Ibid.*

government to introduce evidence of a burglary defendant's other pertinent acts of burglary or theft in instances where, as in Peters's case, the burglary defendant affirmatively places their intent at issue.[18]

And, in fact, the Alaska legislature amended Evidence Rule 404(b) in 1991 with the intent of abrogating *Oksoktaruk*'s narrow construction of the rule. *See* SLA 1991, ch. 79, §§ 1(c), 4.

In section 4 of this session law, the legislature reformulated Evidence Rule 404(b)(1) by adding the following italicized words, and by deleting the words in brackets:

> (1) Evidence 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* [he] acted in conformity therewith. It *is* [may], however, [be] admissible for other purposes, *including, but not limited to,* [such as] proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

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[18] *See*, *e.g.*, *Rudd v. State*, 825 S.W.2d 565, 568 (Ark. 1992); *State v. Brummett*, 247 P.3d 204, 208 (Idaho App. 2010); *Wickizer v. State*, 626 N.E.2d 795, 799 (Ind. 1993); *Barnett v. Commonwealth*, unpublished, 2009 WL 1830780 at *3 (Ky. 2009); *State v. Day*, 119 So.3d 810, 813-14 (La. App. 2013); *Chism v. State*, 253 So.3d 343, 346-47 (Miss. App. 2018); *State v. Drew*, 891 A.2d 621, 627 (N.J. App. 2006); *State v. Martin*, 665 S.E.2d 471, 474-76 (N.C. App. 2008); *State v. Eastabrook*, 795 P.2d 151, 155-56 (Wash. App. 1990). *See generally United States v. Klein*, 340 F.2d 547, 549 (2nd Cir. 1965) ("Where ... the evidence is susceptible of the interpretation that the acts alleged to constitute the crime were innocently performed and the vital issues of knowledge and intent are keenly disputed, it is well within the trial judge's discretion to permit the Government, on a properly limited basis, to introduce evidence of prior similar offenses demonstrating the unlikelihood that the defendant was a mere innocent, unknowing bystander.").

In section 1(c) of this session law, the legislature explained that its purpose in amending Evidence Rule 404(b)(1) was to overturn *Oksoktaruk*'s basic premise that evidence of other crimes was presumptively too prejudicial to be admitted, even if the evidence was relevant to an issue at trial.

Specifically, the legislature noted that the Alaska cases up to that point differed from the corresponding federal law by treating Evidence Rule 404(b) "as a rule of exclusion":

> [Under the Alaska cases], evidence [of other crimes] is presumed prejudicial and inadmissible even if it is relevant to an issue at trial. *Lerchenstein v. State*, 697 P.2d 312, 315, and 318, n. 2 (Alaska App. 1985), *aff'd.*, *State v. Lerchenstein*, 726 P.2d 546 (Alaska 1986); *Oksoktaruk v. State*, 611 P.2d 521, 524 (Alaska 1980). ... In contrast, federal courts treat the comparable federal rule as a rule of inclusion and are more willing to admit evidence of other charged acts when weighing the probative value of the evidence against the danger of unfair prejudice, generally allowing admissibility of the evidence for a nonpropensity purpose.

The legislature declared that its new version of Rule 404(b)(1) was intended to codify a more flexible and inclusive approach to other crimes evidence:

> The amendment of [Evidence] Rule 404(b)(1) ... made by sec. 4 of this [session law] changes the [evidence] rule ... to make it one of inclusion and to establish that the nonpropensity purposes listed in the rule are not inclusive [*sic*: not exclusive] and that evidence can be admitted if it is relevant to a purpose not listed in the rule.

Because of the legislature's action in 1991, certain aspects of the *Oksoktaruk* decision are no longer good law.

Evidence Rule 404(b)(1) continues to strictly prohibit evidence of a person's other bad acts if that evidence is offered solely for the prohibited purpose of establishing the person's character, so that the person's character can be used as circumstantial evidence that the person acted true to character during the incident being litigated.[19] In that limited sense, Evidence Rule 404(b)(1) remains a "rule of exclusion".

But Alaska law no longer incorporates the broad presumption of exclusion or inadmissibility that the supreme court adopted in *Oksoktaruk* and that this Court followed in *Beekman*. The supreme court acknowledged this change in the law in *Conley v. Alaska Communications Systems Holdings*, *Inc.*, 323 P.3d at 1136 n. 11 (Alaska 2014).

That being said, trial judges are required to evaluate whether the proposed non-character use of the evidence is, in fact, a valid ground for admitting the evidence. See our discussion of this point in *Willock v. State*, 400 P.3d 124, 127-130 (Alaska App. 2017):

> [A] trial judge must not allow a prosecutor (or a defense attorney, for that matter) to simply recite the various permitted purposes listed in Rule 404(b)(1) and to make generalized assertions about how a person's past acts show their "intent", "plan", "knowledge", or "absence of mistake or accident". When a trial judge evaluates an attorney's request to introduce evidence under Rule 404(b)(1), the judge must apply these words in their technical sense, and the judge must decide whether the proposed evidence truly has a case-specific relevance other than proving the defendant's general desire or willingness to engage in the kind of criminal behavior at issue in the case.

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[19] *Oakly Enterprises, LLC v. NPI, LLC*, 354 P.3d 1073, 1083 n. 39 (Alaska 2015), quoting this Court's decision in *Bingaman v. State*, 76 P.3d 398, 403 (Alaska App. 2003).

Willock, 400 P.3d at 127. *See also Belcher v. State*, 372 P.3d 279, 284-85 (Alaska App. 2016).

And even if the evidence of other crimes has a valid non-character relevance, trial judges are still required to evaluate the evidence under Evidence Rule 403, to assess whether its potential for unfair prejudice outweighs its probative value (that is, the strength of its relevance for a non-character purpose).

We note that in *Wagner v. State*, 347 P.3d 109, 113 & n. 24 (Alaska 2015), the supreme court explained that the test for admitting evidence of bad acts is still somewhat stricter under Alaska Evidence Rule 403 than the test codified in the federal counterpart of Rule 403. This is because Alaska Evidence Rule 403 authorizes a trial judge to exclude evidence "if its probative value is *outweighed* by the danger of unfair prejudice", while Federal Evidence Rule 403 authorizes a judge to exclude relevant evidence only if "its probative value is *substantially outweighed* by a danger of ... unfair prejudice". (Emphasis added by the supreme court in *Wagner*, 347 P.3d at 113 n. 24.)

The litigation of this issue at Peters's trial

As we have explained, Peters conceded that he entered the Sackett/Tanner residence without permission in the early morning hours, and the only actively contested issue at trial was Peters's intent when he entered the residence. The prosecutor asked the trial judge for permission to introduce evidence of Peters's prior burglaries under Alaska Evidence Rule 404(b)(1), under the theory that Peters's commission of the prior burglaries tended to disprove Peters's assertion that he acted with innocent intent in the present case.

After hearing the State's offer of proof, and after hearing argument from both parties, the trial judge concluded that evidence of Peters's other acts of burglary was

admissible under Evidence Rule 404(b)(1). However, in reaching this conclusion, the judge explicitly relied on the method of analysis that this Court set forth in *Bingaman v. State*, 76 P.3d 398, 415-16 (Alaska App. 2003).

As we explained in *Berezyuk v. State*, 407 P.3d 512, 516 (Alaska App. 2017), the *Bingaman* test is designed for evaluating the admissibility of evidence of a defendant's other bad acts under Evidence Rules 404(b)(2), (b)(3), and (b)(4) — evidence rules that explicitly authorize the admission of this evidence *to prove a defendant's character*. *Bingaman* is not the proper test for evaluating whether evidence is admissible under Evidence Rule 404(b)(1) — because Rule 404(b)(1) expressly *excludes* evidence that is offered to prove a defendant's character.

In *Berezyuk*, we concluded that the trial court's reliance on *Bingaman* required reversal because "the court's error directly led to the prosecutor using the prior conviction as propensity and character evidence at trial."[20] Here, however, we have carefully examined the record in Peters's case, and we conclude that this is an instance where the non-propensity purpose of the evidence was clear, and where the trial judge's announced reliance on *Bingaman* was an error of nomenclature rather than substance.

The judge expressly declared that the evidence of Peters's prior burglaries was relevant only to the issue of Peters's "intent to commit [a] crime" — an issue which the judge recognized as the "central" issue in Peters's case. The judge then stated that the evidence of Peters's prior burglaries was *not* being introduced to prove Peters's character, and the judge concluded that the evidence would not "lead the jury to decide the case on improper grounds", or "distract the jury from the main issue".

Moreover, unlike in *Berezyuk*, the prosecutor only briefly mentioned Peters's prior burglaries during closing statement, and she explicitly told the jury that

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[20] *Berezyuk*, 407 P.3d at 516.

"[Peters's prior convictions are] really only relevant to prove his intent." She then added, "[y]ou can't use prior history to decide he's a person of bad character, and therefore, more likely to commit crimes."

Because we agree with the judge's conclusion that the evidence of Peters's prior burglaries had a valid non-propensity purpose, we employ the deferential "abuse of discretion" standard when we review the judge's balancing of the probative value of this evidence against its potential for unfair prejudice under Evidence Rule 403.[21] Based on the record in this case, we find no abuse of discretion.

We therefore uphold the trial judge's decision to allow the State to introduce evidence of Peters's prior burglaries.

Peters's challenges to his probation conditions

Peters argues that the trial court erred when it imposed certain probation conditions, because, according to Peters, the court failed to make case-specific findings justifying those conditions.

As a general matter, probation conditions must be reasonably related to the defendant's rehabilitation or to the protection of the public, and they must not unduly restrict the defendant's liberty.[22] Sentencing courts have a duty to ensure that the probation conditions imposed on a defendant meet these requirements, but this duty does not require the court to expressly justify each condition if it is not challenged.[23] Nor does this duty provide an exception to the "well-established principle" requiring a

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[21] *Leopold v. State*, 278 P.3d 286, 290 (Alaska App. 2012).

[22] *State v. Ranstead*, 421 P.3d 15, 19 (Alaska 2018).

[23] *Id.* at 20.

defendant to contemporaneously object to a condition of probation in order to preserve a challenge on appeal.[24] In the absence of an objection, however, this Court may still review a challenged condition for plain error.[25]

We have reviewed the record in this case and find no plain error in any of the challenged probation conditions.

Conclusion

The judgement of the superior court is AFFIRMED.

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[24] *Ibid.*

[25] *Id.* at 23 (citing *Adams v. State*, 261 P.3d 758, 764 (Alaska 2011)).