

**IN THE DISTRICT COURT OF LYON COUNTY, KANSAS
JUVENILE DIVISION**

IN THE MATTER OF

ANDREW JOHN GRANADO, Respondent

CASE NO. 2021-JV-000033

**DATE OF BIRTH: xx/xx/1999
A MALE UNDER THE AGE OF 18 YEARS**

MOTION TO AUTHORIZE PROSECUTION AS AN ADULT

Pursuant to K.S.A. 38-2347

COMES NOW, Amy L. Aranda, First Assistant Lyon County Attorney, and moves the Court for an order authorizing prosecution of the above-named juvenile as an adult pursuant to K.S.A. 38-2347. The State asserts that prosecution of Andrew John Granado as an adult is justified by the offenses charged in the Complaint, the characteristics of the juvenile, and the circumstances of the alleged offense. In support hereof, movant states and alleges as follows,

Pursuant to K.S.A. 38-2347,

at any time after commencement of proceedings under this code against a juvenile and prior to the beginning of an evidentiary hearing at which the court may enter a sentence as provided in K.S.A. 2020 Supp. 38-2356, and amendments thereto, the county or district attorney or the county or district attorney's designee may file a motion requesting that the court authorize prosecution of the juvenile as an adult under the applicable criminal statute. The juvenile shall be presumed to be a juvenile, and the presumption must be rebutted by a preponderance of the evidence.

K.S.A. 38-2347. The District Court shall consider each of the following eight factors when determining whether or not prosecution as an adult should be authorized:

1. The seriousness of the alleged offense and whether the protection of the community requires prosecution as an adult or designating the proceeding as an extended jurisdiction juvenile prosecution;
2. whether the alleged offense was committed in an aggressive, violent, premeditated or willful manner;
3. whether the offense was against a person or against property. Greater weight shall be given to offenses against persons, especially if personal injury resulted;

4. the number of alleged offenses unadjudicated and pending against the juvenile;
5. the previous history of the juvenile, including whether the juvenile had been adjudicated a juvenile offender under this code or the Kansas juvenile justice code and, if so, whether the offenses were against persons or property, and any other previous history of antisocial behavior or patterns of physical violence;
6. the sophistication or maturity of the juvenile as determined by consideration of the juvenile's home, environment, emotional attitude, pattern of living or desire to be treated as an adult;
7. whether there are facilities or programs available to the court which are likely to rehabilitate the juvenile prior to the expiration of the court's jurisdiction under this code; and
8. whether the interests of the juvenile or of the community would be better served by criminal prosecution or extended jurisdiction juvenile prosecution.

The insufficiency of evidence pertaining to any one or more of the factors listed in this subsection, in and of itself, shall not be determinative of the issue. The court may authorize prosecution as an adult if the court finds from a preponderance of the evidence that the alleged juvenile offender should be prosecuted as an adult for the offenses charged. K.S.A. 38-2347.

In the present matter, the following factors are applicable and support prosecution of Andrew John Granado as an adult:

I. The seriousness of the alleged offenses and whether the protection of the community requires prosecution as an adult.

The State has filed charges alleging Conspiracy to Commit Murder in the First Degree; Murder in the First Degree Premeditated, and an alternative charge of Felony Murder; Conspiracy to Commit Aggravated Robbery; Aggravated Robbery; Aggravated Arson; and Interference with Law Enforcement arising out of the death of Jesus Avila, Jr.

The protection of the community requires prosecution as an adult due to the seriousness of the offenses.

II. Whether the alleged offenses were committed in an aggressive, violent, premeditated or willful manner.

Andrew John Granado [Granado], along with co-conspirators, S.G., J.P., A.A., A.N., and Jordy Cornejo-Campoverde [Cornejo-Campoverde], discussed “the plan” to murder Jesus Avila, Jr. [Avila] weeks in advance of the September 5, 2017 murder of Jesus Avila, Jr. As a part of “the plan,” S.G. acquired a .22 caliber pistol to use in the commission of the murder. Granado was aware that S.G. obtained this weapon. Granado and the above named co-conspirators turned off the location services on their cell phones. On the morning of the murder, on September 5, 2017, “the plan” was for Granado and co-conspirators, S.G., J.P., A.A., A.N., and Cornejo-Campoverde to skip school and meet at Cornejo-Campoverde’s house. Granado and co-conspirators planned for S.G. to contact Avila on the premise of S.G. selling Avila a pound of marijuana. The plan thereafter was for S.G. and J.P. to leave with Avila in Avila’s vehicle and drive to Sacred Heart Cemetery where S.G. would shoot and kill Avila. Granado and co-conspirators agreed that Granado would drive with A.A., A.N. and Cornejo-Campoverde to obtain gasoline, drive to a secluded location at 1600 Road T, and wait for S.G. and J.P. to arrive in Avila’s vehicle with Avila’s body, to burn the body and vehicle. Granado and co-conspirators agreed that they would take the money that Avila brought to the purported drug transaction. Granado agreed to drive S.G., J.P., A.A., A.N., and Cornejo-Campoverde away from 1600 Road T and back to Cornejo-Campoverde’s house once the murder and arson were completed.

Pursuant to “the plan,” on the morning of September 5, 2017, Granado, S.G., J.P., A.A., A.N. and Cornejo-Campoverde skipped school and met at Cornejo-Campoverde’s house. A.N. left to go to a medical appointment, but agreed to meet back up with co-conspirators after his appointment. Shortly thereafter, S.G. messaged Avila to come by and pick up S.G. and J.P. at Cornejo-Campoverde’s house so S.G. could sell Avila a pound of marijuana. Avila withdrew

money from a safe at his home and from the bank, and drove to Cornejo-Campoverde's house where Granado, S.G., J.P., A.A., and Cornejo-Campoverde were waiting. Thereafter, S.G. and J.P. left with Avila in Avila's vehicle. S.G. took the .22 caliber pistol with him and sat in the backseat behind Avila. Granado, A.A. and Cornejo-Campoverde left in Granado's vehicle shortly thereafter and obtained a gas can full of gasoline from A.A.'s house, picked up A.N., and drove to 1600 Road T to wait for S.G. and J.P. to arrive with Avila's body and vehicle.

Once at Sacred Heart Cemetery, while J.P. distracted Avila, S.G. shot Avila two times in the back of the head killing him. S.G. and J.P. then drove Avila's vehicle with Avila's body to the agreed upon location at 1600 Road T where Granado, A.A., A.N., and Cornejo-Campoverde were waiting for them to arrive. Granado, A.A., A.N., and Cornejo-Campoverde provided the gasoline to S.G. and assisted in removing U.S. currency, a subwoofer speaker, and an AK47 rifle from Avila's person and/or vehicle before lighting Avila's body and vehicle on fire. Once the body and vehicle were engulfed in flames, Granado drove S.G., J.P., A.A., A.N., and Cornejo-Campoverde from 1600 Road T back to Cornejo-Campoverde's house.

S.G., A.A. and Cornejo-Campoverde then disposed of the murder weapon. Later, Granado and co-conspirators ate pizza using Avila's money, and hid Avila's subwoofer speaker and AK47 rifle.

III. Whether the offenses were against a person or against property.

Granado is charged with Conspiracy to Commit Murder in the First Degree, Murder in the First Degree, Premeditated and an alternative of Murder in the First Degree, Felony Murder, Conspiracy to Commit Aggravated Robbery, and Aggravated Robbery all of which are person felonies. Arson and Interference with Law Enforcement are non-person felonies.

IV. The number of alleged offenses unadjudicated and pending against the juvenile.

At the time of the murder, Granado had unadjudicated charges pending for felony Attempt to Flee and Elude from an incident occurring in April of 2017, and previously alleged in Lyon County Case 2017-JV-000061. Subsequent to the murder, Granado had pending adult charges of Conspiracy to Commit Aggravated Kidnapping, Aggravated Kidnapping, Conspiracy to Commit Aggravated Battery, Aggravated Battery, Aggravated Robbery and Criminal Threat from an incident occurring in November of 2017, and previously charged in Lyon County Case 2017-CR-000516 which was dismissed without prejudice.

V. The previous history of the juvenile, including whether the juvenile had been adjudicated a juvenile offender under this code or the Kansas juvenile justice code and, if so, whether the offenses were against persons or property, and any other previous history of antisocial behavior or patterns of physical violence.

Granado has no prior juvenile adjudications, but committed a felony Attempt to Flee and Elude in April of 2017 alleged in Lyon County Case 2017-JV-000061, and had pending adult charges of Conspiracy to Commit Aggravated Kidnapping, Aggravated Kidnapping, Conspiracy to Commit Aggravated Battery, Aggravated Battery, Aggravated Robbery and Criminal Threat from an incident occurring in November of 2017 and previously charged in Lyon County Case 2017-CR-000516 which was dismissed without prejudice. In addition, during the investigation into the murder of Jesus Avila, Jr., law enforcement discovered numerous references in social media conversations in which Granado discussed with others his participation and/or planning of robberies of other individuals, fights, drug transactions, the acquisition and sale of firearms, and the use of firearms.

VI. The sophistication or maturity of the juvenile as determined by consideration of the juvenile's home, environment, emotional attitude, pattern of living or desire to be treated as an adult.

Granado has a history of skipping school, using illegal drugs, selling illegal drugs, participating in group robberies, consuming alcohol, and committing batteries on other persons in

the community.

VII. Whether there are facilities or programs available to the court which are likely to rehabilitate the juvenile prior to the expiration of the court's jurisdiction under this code.

The primary goals of the Kansas Juvenile Justice Code are to “promote public safety, hold juvenile offenders accountable for their behavior and improve their ability to live more productively and responsibly in the community.” K.S.A. 38-2301. Juvenile justice policies, pursuant to the Kansas Juvenile Justice Code shall

(a) Protect public safety; (b) recognize that the ultimate solutions to juvenile crime lie in the strengthening of families and educational institutions, the involvement of the community and the implementation of effective prevention and early intervention programs; (c) be community based to the greatest extent possible; (d) be family centered when appropriate; (e) facilitate efficient and effective cooperation, coordination and collaboration among agencies of the local, state and federal government; (f) be outcome based, allowing for the effective and accurate assessment of program performance; (g) be cost-effectively implemented and administered to utilize resources wisely; (h) encourage the recruitment and retention of well-qualified, highly trained professionals to staff all components of the system; (i) appropriately reflect community norms and public priorities; and (j) encourage public and private partnerships to address community risk factors.

K.S.A. 38-2301.

Further, once the Court obtains jurisdiction, this Court’s jurisdiction under the Kansas Juvenile Justice Code shall continue beyond the juvenile offenders 21st birthday, but no later than the juvenile offender’s 23rd birthday if the offender is serving a sentence in a juvenile correctional facility or is sentenced pursuant to an extended jurisdiction juvenile prosecution. K.S.A. 38-2304. At the time of the murder of Jesus Avila, Jr. on September 5, 2017, Granado was 17 years old and just one month away from his 18th birthday. Granado is now 21 years old and less than two months from his 22nd birthday. Under the Kansas Juvenile Justice Code, this Court’s jurisdiction will expire in a little over one year upon adjudication for the crimes. Therefore, proceeding under the Kansas Juvenile Justice Code would provide no time for rehabilitation of Granado prior to

expiration of the Court's jurisdiction. Further, proceeding under the Kansas Juvenile Justice Code would result in Granado incurring no real consequences or accountability for his crimes.

VII. Whether the interests of the juvenile or of the community would be better served by criminal prosecution or extended jurisdiction juvenile prosecution.

The community safety interests would be better served by an adult criminal prosecution as opposed to proceeding under the juvenile justice code. Community safety interests dictate an adult prosecution due to the violent nature of the offenses, and Granado's willingness to engage in the premediated, and concerted efforts with his co-conspirators to bring about the death of Jesus Avila, Jr. Community interests lie in protecting the community from the danger this juvenile presents, and holding Granado accountable for his conduct.

WHEREFORE, the State requests the Court set the matter for hearing and authorize prosecution of the juvenile as an adult.

/s/ Amy L. Aranda

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