

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

**IN THE MATTER OF:
ARMANDO NUNEZ, JUVENILE** **CASE NO. 2021-JV-000038**

**DOB: XX/XX/2000
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 Armando Nunez 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 Armando Nunez 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.

Armando Nunez [Nunez], along with co-conspirators, Sammy Garcia [Garcia], Jovan Pecina [Pecina], Alan Alanis [Alanis], Andrew John Granado [Granado], 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,” Garcia acquired a .22 caliber pistol to use in the commission of the murder. Nunez was aware that Garcia obtained this weapon. Nunez 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 Nunez and co-conspirators, Garcia, Pecina, Alanis, Granado, and Cornejo-Campoverde to meet at Cornejo-Campoverde’s house. Nunez and co-conspirators planned for Garcia to contact Avila on the premise of Garcia selling or arranging the sale of marijuana to Avila. The plan thereafter was for Garcia and Pecina to leave with Avila in Avila’s vehicle and drive to Sacred Heart Cemetery where Garcia would shoot and kill Avila. Nunez and co-conspirators agreed that Granado would drive with Alanis, Nunez and Cornejo-Campoverde to obtain gasoline, drive to a secluded location at 1600 Road T, and wait for Garcia and Pecina to arrive in Avila’s vehicle with Avila’s body, to burn the body and vehicle. Nunez and co-conspirators agreed that they would take the money that Avila brought to the purported drug transaction. Nunez agreed to drive Garcia, Pecina, Alanis, Nunez, 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, co-conspirators met at Cornejo Campoverde’s house. Nunez left to go to a medical appointment, but agreed to meet with co-conspirators after his appointment. Shortly thereafter, Garcia messaged Avila to come by and pick up Garcia and Pecina at Cornejo-Campoverde’s house on the premise of Garcia selling or

arranging the sale of marijuana to Avila. Avila withdrew money from a safe at his home and from the bank, and drove to Cornejo-Campoverde's house where Granado, Garcia, Pecina, Alanis, and Cornejo-Campoverde were waiting. Thereafter, Garcia and Pecina left with Avila in Avila's vehicle. Garcia took the .22 caliber pistol with him and sat in the backseat behind Avila. Granado, Alanis and Cornejo-Campoverde left in Granado's vehicle shortly thereafter and obtained a gas can full of gasoline from Alanis's house, picked up Nunez, and drove to 1600 Road T to wait for Garcia and Pecina to arrive with Avila's body and vehicle.

Once at Sacred Heart Cemetery, while Pecina distracted Avila, Garcia shot Avila two times in the back of the head killing him. Garcia and Pecina then drove Avila's vehicle with Avila's body to the agreed upon location at 1600 Road T where Granado, Alanis, Nunez, and Cornejo-Campoverde were waiting for them to arrive. Granado, Alanis, Nunez, and Cornejo-Campoverde provided the gasoline to Garcia 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 Garcia, Pecina, Alanis, Nunez, and Cornejo-Campoverde from 1600 Road T back to Cornejo-Campoverde's house.

Garcia, Alanis and Cornejo-Campoverde then disposed of the murder weapon. Later, Nunez 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.

Nunez 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, Nunez was adjudicated as a juvenile offender for battery in Lyon County Case No. 2014-JV-000038 and was placed on probation. Probation was revoked and subsequently Nunez was ordered removed from the home for continued probation violations. Subsequent to the murder, Nunez was prosecuted as an adult and convicted of Aggravated Battery, and Attempted Aggravated Robbery in Lyon County Case. No. 2018-CR-000088 arising out of an incident occurring in November of 2017. There are no other unadjudicated offenses pending against Nunez at this time.

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.

Prior to Avila's murder on September 5, 2017, Nunez was adjudicated as a juvenile offender for battery in Lyon County Case No. 2014-JV-000038 and was placed on probation. Probation was revoked and subsequently Nunez was ordered removed from the home for continued probation violations. Subsequent to the murder, Nunez was prosecuted as an adult and convicted of Aggravated Battery, and Attempted Aggravated Robbery in Lyon County Case. No. 2018-CR-000088 arising out of an incident occurring in November of 2017. Additionally, during the investigation into the murder of Jesus Avila, Jr., law enforcement discovered numerous references in social media conversations in which Nunez discussed with others his participation and/or planning of robberies of other individuals, fights, drug transactions, the acquisition and sale of firearms, the use of firearms, and the consumption of alcohol and illegal drugs.

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.

Nunez has a history of skipping school, using illegal drugs, selling illegal drugs,

participating in group robberies, consuming alcohol, the acquisition and sale of firearms, the use of firearms, 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, Nunez was 16 years old and just under two months away from his 17th birthday. Nunez is now 20 years old and approximately two months from his 21st birthday. Under the Kansas Juvenile Justice Code, this Court’s jurisdiction will expire in a little over two years upon adjudication for the crimes. Therefore,

proceeding under the Kansas Juvenile Justice Code would provide no time for rehabilitation of Nunez prior to expiration of the Court's jurisdiction. Further, proceeding under the Kansas Juvenile Justice Code would result in Nunez 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 Nunez'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 Nunez 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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