

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

IN THE MATTER OF:

JOVAN PECINA, JUVENILE CASE NO. 2021-JV-000039

**DOB: XX/XX/2001
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 Jovan Pecina 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 Jovan Pecina 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.

Jovan Pecina [Pecina], along with co-conspirators, Sammy Garcia [Garcia], Andrew John Granado [Granado], Alan Alanis [Alanis], Armando Nunez [Nunez], 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. Pecina was aware that Garcia obtained this weapon. Pecina 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 Pecina and co-conspirators, Garcia, Granado, Alanis, Nunez, and Cornejo-Campoverde to meet at Cornejo-Campoverde’s house. Pecina 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. Pecina 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. Pecina and co-conspirators agreed that they would take the money that Avila brought to the purported drug transaction. Granado 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 a medical appointment, but agreed to meet back up 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. Pecina and co-conspirators 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, Pecina 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.

Pecina 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, Pecina had prior juvenile adjudications for disorderly conduct fighting in Lyon County Case No. 2016-JV-000020; and Aggravated Assault with a Deadly Weapon in Lyon County Case No. 2015-JV-000071. Subsequent to the murder, Pecina was convicted of Driving Under the Influence of Alcohol in Lyon County Case No. 2018-TR-000138 and adjudicated as a juvenile offender in Lyon County Case No. 2019-JV-000013 for possession of drug paraphernalia. Probation has since been terminated in both cases.

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.

At the time of the murder, Pecina had prior juvenile adjudications for disorderly conduct fighting in Lyon County Case No. 2016-JV-000020; and Aggravated Assault with a Deadly Weapon in Lyon County Case No. 2015-JV-000071. Subsequent to the murder, Pecina was convicted of Driving Under the Influence of Alcohol in Lyon County Case No. 2018-TR-000138 and adjudicated as a juvenile offender in Lyon County Case No. 2019-JV-000013 for possession of drug paraphernalia. Probation has since been terminated in both cases. Additionally, during the investigation into the murder of Jesus Avila, Jr., law enforcement discovered numerous references in social media conversations in which Pecina 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.

Pecina 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, Pecina was 16 years old. Pecina is now 20 years old. Under the Kansas Juvenile Justice Code, this Court’s jurisdiction will expire in a little over 2 years upon adjudication for the crimes. Therefore, proceeding under the Kansas

Juvenile Justice Code would provide no time for rehabilitation of Pecina prior to expiration of the Court's jurisdiction. Further, proceeding under the Kansas Juvenile Justice Code would result in Pecina incurring no real consequences or accountability for role the murder of Jesus Avila, Jr.

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 Pecina'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 Jovan Pecina 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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