

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT

State of Minnesota,
Plaintiff,

v.

**STATE’S PETITION FOR
PROSECUTOR-INITIATED
SENTENCE ADJUSTMENT
UNDER § 609.133**

Jerome Deon Nunn,

Court File No. 27-CR-95-068982

Defendant.

TO: The Honorable William Koch, Judge of the Fourth Judicial District, and Defense Counsel David Singleton.

INTRODUCTION¹

In August of 2023, Minnesota became the sixth state in the country to enact some form of prosecutor-initiated resentencing.² Under Minnesota Statute § 609.133, titled “Prosecutor-Initiated Sentence Adjustment” (PISA), prosecutors may petition a court to lower the sentence of an incarcerated person who has clearly demonstrated both that they are rehabilitated and that further incarceration is no longer in the interests of justice or public safety.³

PISA contemplates that prosecutors will not petition for a sentence adjustment until after they have carefully reviewed the individual’s history, including the underlying case file, the

¹ Because this is the first petition filed under § 609.133 in Hennepin County, and possibly the State of Minnesota, the State here provides some background and additional information about the statute and its purpose. Minn. Stat. § 609.133 is included as Ex. 1.

² Poggio, Marco, *Minnesota Joins Prosecutor-Led Resentencing Law Movement*, Law360, (June 23, 2023), <https://www.law360.com/articles/1680599/minnesota-joins-prosecutor-led-resentencing-law-movement> (recognizing that beginning with California in 2018, Washington, Oregon, Illinois and Louisiana have enacted some form of prosecutor-initiated sentencing adjustment (known elsewhere as prosecutor-initiated resentencing) and noting that six other states are considering similar legislation).

³ Overview HF 901 (Moller) – Prosecutor-Initiated Resentencing Legislation House Public Safety and Criminal Justice Reform Committee (2021), *available at* https://www.house.mn.gov/comm/docs/3W-mli_y3kO3Iw3rSyIrrg.pdf.

individual's criminal history, records from the Department of Corrections (DOC), including disciplinary records, mental health and medical records, substance abuse and recidivism assessments, work assignments, and educational and behavioral programming records.⁴ Additionally, prior to filing a petition, a prosecutor must make good faith efforts to notify any identifiable victims and consider the impact a sentence adjustment would have on the victims.⁵

Upon receiving a PISA petition, the Court must consider whether a sentence adjustment would impact public safety, promote the rehabilitation of the individual, properly reflect the severity of the underlying offense, or reduce sentencing disparities.⁶ The Court may also consider factors relating to both the offender and the offense.⁷ The Court should grant a PISA petition when the State has shown by a preponderance of the evidence that there are "substantial and compelling reasons" to adjust the individual's sentence.

When introducing the bill that would become § 609.133, the House author explained that under the new law, a "potential candidate would be someone that demonstrates significant rehabilitative progress in prison" and who has "paid their debt to society."⁸ Someone deserving of a sentence adjustment, she explained, "would not pose a risk to public safety," and would be a "positive addition to our communities."⁹

⁴ See Minn. Stat. § 609.133, subs. 5, 7.

⁵ Poggio, Marco, *supra* n. 2. The Department of Corrections, and two of Minnesota's largest victim/survivor coalitions, Violence Free Minnesota and the Minnesota Coalition Against Sexual Abuse, supported this legislation. *Id.*; Ex. 14 (Commissioner Schnell wrote that "Fiscal responsibility is achieved, and disparities can be addressed, by providing prosecutors the discretionary authority to request review of sentences when the interests of justice, public safety, and fairness support it.)

⁶ Minn. Stat. § 609.133, subd. 7(a).

⁷ *Id.* § 609.133, subd 7(a).

⁸ Overview HF 901 (Moller), *supra* n. 3.

⁹ *Id.*

Jerome Nunn fits these descriptions perfectly. After serving 28 years of a life sentence, Nunn has repeatedly demonstrated that he is deserving of the extraordinary opportunity afforded by the PISA statute. Accordingly, for the reasons stated here and in the State's supporting memorandum,¹⁰ the State petitions the Court under § 609.133 to adjust Nunn's sentence to time served.

PETITION

The State, after thoroughly reviewing the record in this case, as well as Nunn's criminal history and prison records, respectfully petitions this Court to adjust Nunn's sentence to time served.¹¹ Through his exceptional post-conviction conduct, Nunn has established that he does not present a risk to public safety and that continued confinement and supervision are no longer in the interests of justice or an effective use of correctional resources.

Pursuant to Minn. Stat. § 609.133, subd. 4(a), Petitioner states the following:

I. NAME, ALIASES, DATE OF BIRTH, AND ADDRESS FOR JEROME NUNN¹²

Jerome Deon Nunn, date of birth, February 16, 1976

Aliases: Jerome Deon Nunn, February 16, 1974
Marcus Antoine Tynes, February 16, 1976
Roy Lee Kemp, September 3, 1970

¹⁰ Under § 609.133, subd. 6(a), the State and the defense may submit written arguments to the Court supporting their positions prior to a hearing on the petition. Pursuant to that provision, the State is contemporaneously filing a memorandum in support of this Petition. The memorandum more fully addresses the factors this Court may consider under Minn. Stat. § 609.133, subd. 7(a) to determine whether there are "substantial and compelling" reasons for the Court to grant the Petition.

¹¹ The State petitions this Court after careful review of thousands of documents regarding this case and Jerome Nunn. *See* Affidavit of the University of St. Thomas School of Law Resentencing Project.

¹² Minn. Stat. § 609.133, subd. 4(a)(1)-(3).

Nunn's current address is incorporated here by reference to Exhibit 2, which lists his "Residence."¹³

II. THE STATE SEEKS A SENTENCE ADJUSTMENT FOR NUNN BECAUSE HIS EXTENSIVE RECORD OF REHABILITATION SHOWS THAT NEITHER THE INTERESTS OF JUSTICE NOR PUBLIC SAFETY ARE SERVED BY HIS CONTINUED INCARCERATION OR SUPERVISION.¹⁴

For nearly 30 years, Nunn's efforts at rehabilitation and improving, not only his life, but the lives of others, are nothing short of remarkable. Nunn was 19 years old with a 5th-grade reading level when he entered prison in 1995 to serve a life sentence for first-degree murder. Today, Nunn has multiple degrees and is an ordained minister. He has become a community leader and mentor inside and outside of the prison walls. He has earned dozens of certificates from the DOC and completed extensive programming. Nunn also developed the DOC's Restorative Justice Program, which is now available statewide throughout DOC prisons.

Since his transition to work release in 2023, Nunn has continued to better himself and the community. He currently works at a non-profit organization as a re-entry specialist, where he is reported to "arrive at work every day with a smile on his face" and demonstrate a "deep[] commit[ment] to making a difference in the lives of those participants he coaches and mentors daily."¹⁵ Additionally, for the past year, Nunn has been working with the DOC's Victim Services and Restorative Justice Unit, and the DOC's Housing and Stability Team.¹⁶ The DOC has also

¹³ The State does not find it appropriate to list Nunn's current temporary address in a public document when the Court has access to it in a sealed exhibit. *See* Minn. R. Gen. Prac. 11, Advisory Committee Comment - 2015 Amendment (advising practitioners to avoid filing home addresses when possible).

¹⁴ *See id.* § 609.133, subd. 4(a)(4) (requiring the petition to include a "brief statement of the reasons the prosecutor is seeking a sentence adjustment").

¹⁵ Ex. 15(D).

¹⁶ Nunn Affidavit, ¶ 13 (verified by Confidential Ex. C17 at 1-2); *see* Minn. Stat. § 13.85, subd. 4.

approved Nunn to speak to life-sentence groups at Minnesota correctional facilities in Lino Lake and Faribault.¹⁷ The community support surrounding Nunn is evident in the numerous letters the State received on Nunn’s behalf from people who work with Nunn, or attend his church or the multiple community gatherings and support groups he regularly attends.¹⁸

Further, Danielle Jones, the mother of the deceased victim in this case, has forgiven Nunn and supports his full and free return to society. Nearly twenty years ago, she “officially adopted [Nunn] as her spiritual son,” and the two have written and spoken frequently since then, sharing details about their lives and families.¹⁹ Jones has been advocating for Nunn’s release since 2014, when she wrote to the Court: “I am pleading with you for Jerome’s sentence to be changed to time served and for him to be granted an immediate release and come out of prison as soon as possible.”²⁰ She has reaffirmed that plea in a letter to the Board of Pardons in 2021, and now, to this Court.²¹

III. DETAILS OF THE OFFENSE²²

On July 22, 1995, at a liquor store parking lot in Minneapolis, Hennepin County, 19-year-old Jerome Nunn and another person fired 36 bullets into an occupied vehicle, killing 21-year-old Abduel Poe and injuring John Dazel Holmes.²³ Poe suffered six gunshot wounds. Holmes suffered two grazing wounds to his back and injuries to his face from flying glass.

¹⁷ *Id.*

¹⁸ *See* Exs. 15(A)-(M).

¹⁹ Ex. 12(B) at 1-2.

²⁰ *Id.*

²¹ Exs. 12(A), 12(B).

²² *See* Minn. Stat. § 609.133, subd. 4(a)(5). Information in this section satisfies petition requirements under Minn. Stat. §609.133, subd. 4(a)(5), regarding details of the offense for which an adjustment is sought, including: (i) date and jurisdiction of the occurrence; (ii) names of any victims; (iv) court file number; and (v) date of conviction.

²³ Under the terms of Nunn’s work release, he is not to have contact with Holmes without prior authorization of his DOC agent. *See* Ex. 2. The State is not aware of any prior court orders

Nunn was indicted for Aiding and Abetting First-Degree Murder and for Aiding and Abetting Attempted First-Degree Murder, in Hennepin County Case Number 27-CR-95-068982. At the jury trial, the State argued that Nunn thought Poe and Holmes had recently stolen \$20,000 and a pound of marijuana from the home where Nunn lived with his cousin, K.N., and her three-year-old daughter. The State introduced evidence that Nunn and his friends intimidated K.N., believing she knew who robbed Nunn and believing she had information about the missing items. Nunn and three of his friends drove K.N. around in a vehicle, displaying guns and duct tape, suggesting they would harm her if she did not disclose information to them.

Holmes testified at trial that Nunn had previously confronted him and accused him and Poe of stealing the money and marijuana. Holmes positively identified Nunn as one of the shooters. The suspect vehicle registered to Nunn's grandmother. Nunn did not testify at trial. His girlfriend and mother proffered an alibi defense that was ultimately rejected by the jury.²⁴ On December 15, 1995, the jury returned guilty verdicts on both counts.²⁵ On January 25, 1996, Nunn was sentenced to life in prison with the possibility of parole for Aiding and Abetting First-Degree Murder, and to 180 months for Aiding and Abetting Attempted First-Degree Murder.²⁶ Nunn was to serve the 180-month sentence consecutive to his life sentence.²⁷

for protection, restraining orders, or other no contact orders prohibiting Nunn from contacting the victims in this case. *See* Minn. Stat. § 609.133, subd. 4(a)(5)(iii). After Jones wrote to Nunn in 2000, the DOC has clearly authorized Nunn to contact and remain in contact with her and her family. *See, e.g.,* Confidential Ex. C15 at 5; Ex. 13(C) (Jones and Nunn discussing their communication in the presence of DOC Commissioner Paul Schnell at Nunn's Clemency Hearing).

²⁴ Facts in this section are taken from *State v. Nunn*, 561 N.W.2d 902 (Minn. 1997).

²⁵ *See* Ex. 3.

²⁶ *Id.*

²⁷ *Id.*

The Minnesota Supreme Court subsequently affirmed his convictions,²⁸ as well as the Court’s denial of both his post-conviction petition²⁹ and motion to correct his sentence.³⁰ In 2016, Nunn sought federal habeas relief, which a federal court denied in 2016.³¹ In 2022, the Court also denied a second post-conviction petition and motion to vacate and resentence Nunn to time served—relief supported by the State.³² In denying the motion, the Court urged the parties to appeal the order to “see if a trial court . . . has the authority to grant the requested relief.”³³

In January of 2023, the Minnesota Board of Pardons commuted Nunn’s 180-month consecutive sentence to run concurrent to his life sentence, giving him the possibility of parole after 30 years of incarceration.³⁴ Due to the commutation, Nunn has completed the 180-month sentence for the attempted murder of Holmes.

On April 27, 2023, the Minnesota Department of Correction placed Nunn in its Supervised Work Release Program.³⁵ Under the terms of his original sentence, Nunn will either remain in prison or on supervised release for life, regardless of the need for, or utility of, continued supervision.³⁶ He is eligible for parole on July 28, 2025.³⁷

²⁸ *Nunn*, 561 N.W.2d at 904.

²⁹ *Nunn v. State*, 753 N.W.2d 657 (Minn. 2008).

³⁰ *Nunn v. State*, 686 N.W.2d 230 (Minn. 2015).

³¹ *Nunn v. Hammer*, No. 16-CV-2693 (SRN/HB), 2016 WL 5477072, at *1 (D. Minn. Sept. 28, 2016).

³² Index #138, n.2, ¶¶ 21-22.

³³ Index #138, ¶ 46.

³⁴ *See* Exs. 4 and 5; Minn. Stat. § 244.05, subd. 4(b) (stating that the DOC may only grant supervised release to someone serving a mandatory life sentence under §609.185(a)(3) after they have served a minimum of 30 years in prison).

³⁵ *See* Ex. 2.

³⁶ *See* Ex. 6 for a summary of the procedural history in this case.

³⁷ Confidential Ex. C18; *see* Minn. Stat. § 13.85, subd. 4.

IV. NUNN HAS TAKEN SIGNIFICANT STEPS TOWARD PERSONAL REHABILITATION, INCLUDING EDUCATION, PROGRAMMING, WORK, AND GOOD CONDUCT.³⁸

Nunn’s path to prison began when he was just 13 years old, while living in a single-parent home in North Minneapolis.³⁹ Nunn describes his early childhood with his mother and two older sisters as a happy one.⁴⁰ But his family life began to deteriorate when his mother, the sole bread winner for the family, became addicted to pain medications she had begun taking after suffering an accident while working as a city bus driver.⁴¹ Nunn was 10 years old at the time and describes walking around “with a sense of sadness and shame.”⁴²

In 1989, Nunn’s 19-year-old sister was convicted and incarcerated on drug charges.⁴³ Nunn’s mother’s addiction, coupled with his sister’s incarceration meant 13-year-old Nunn had to try to provide for himself.⁴⁴ He dropped out of school and started selling drugs. When he was 19, he committed the senseless acts of violence underlying this case, causing the death of a young man, harm to another, and a life sentence for himself.

At his sentencing hearing, Judge John Sommerville told Nunn: “I hope that Mr. Nunn, I suppose with the grace of God, somehow finds a way to serve the time that’s sentenced in some sort of productive way that can make his life meaningful and beneficial to himself and others. ...

³⁸ See Minn. Stat. § 609.133, subd. 4(a)(6).

³⁹ See Confidential Ex. C16.

⁴⁰ Nunn Affidavit, ¶ 2 (verified by Confidential Ex. C17 at 1-2); see Minn. Stat. § 13.85, subd. 4.

⁴¹ Nunn Affidavit, ¶ 2 (verified by Confidential Ex. C16 at 1-2); see Minn. Stat. § 13.85, subd. 4.

⁴² Nunn Affidavit, ¶ 2 (verified by Confidential Ex. C16 at 1-2); see Minn. Stat. § 13.85, subd. 4.

⁴³ Nunn’s sister has since received two presidential acts of clemency—a commutation and a pardon. See Nunn Affidavit, ¶ 3 (verified by Confidential Ex. C16 at 1-2); see Minn. Stat. § 13.85, subd. 4.

⁴⁴ Nunn Affidavit, ¶ 3 (verified by Confidential Ex. C16 at 1-2); see Minn. Stat. § 13.85, subd. 4.

I hope that you can do something productive with that time.”⁴⁵ Danielle Jones, the mother of the deceased victim, also stated at Nunn’s sentencing hearing that she hoped he would “turn his life around.”⁴⁶

As described below, Nunn’s remarkable progress since 1996 is demonstrated by his educational accomplishments, participation in and even development of DOC programming, work history, and exemplary behavior. His prison record, spanning 28 years, shows that he has indeed transformed himself, and spent his time improving not only his life, but the lives of others as well.

A. Nunn earned multiple degrees while incarcerated after entering prison with only a fifth-grade reading level.

When Nunn entered prison in 1996, he had a fifth-grade reading level and no prior employment history.⁴⁷ Three years later, Nunn obtained his G.E.D. in MCF-St. Cloud, describing it as the “number one accomplishment that gave me a sense of self...education was a new world for me, a place to be in the world without criminal activity.”⁴⁸

Nunn went on to obtain three college degrees: an Associate of Arts Degree from Inver Hills Community College (making the spring semester 2001 Dean’s List); an Associate Degree in Applied Science with a focus on Microcomputer Support Technology from Century Community and Technical College; and an Associate of Arts Degree in General Studies with a concentration in Biblical Studies from North Central University.⁴⁹ Jerome Nunn has also received numerous

⁴⁵ See Ex. 13(C) at 14.

⁴⁶ *Id.* at 6.

⁴⁷ Nunn Affidavit, ¶ 6 (verified by Confidential Ex. C16 at 1-2); see Minn. Stat. § 13.85, subd. 4.

⁴⁸ Nunn Affidavit, ¶ 6 (verified by Confidential Ex. C16 at 3); see Minn. Stat. § 13.85, subd. 4.

⁴⁹ See Ex. 8, Summary of Education and Programming, compiled by the State and UST based on Nunn’s prison records. The State can bring copies of all source documents at the hearing the Court will hold pursuant to Minn. Stat. § 609.133, subd. 6(a).

professional certificates and secured a separate diploma for Legal Assistant/Paralegal from Blackstone Career Institute.⁵⁰

B. Nunn has an impressive record of participating in and even developing programs at the DOC.

Beyond his educational accomplishments, Nunn actively participated in DOC programming. He attended faith-based and spiritual seminars and received over 40 certificates of completion or achievement for his involvement in various programs.⁵¹ Nunn took part in courses related to non-violence, including co-facilitating and leading the Alternatives to Violence Project Workshop, and he successfully completed courses related to finances, character building, long-term offenders, exploring justice, anger management, and critical thinking.⁵² By 2016, Nunn had completed nearly all available programming offered at the Minnesota Correctional Facility in Stillwater, where he was housed.⁵³

While incarcerated, Nunn helped to launch the Restorative Justice Program, focused on victim-offender mediation. This program has since been implemented throughout the entire Minnesota state prison system.⁵⁴ One of the clinical program therapists described him as “an integral part of developing Restorative Justice for the Department of Corrections” and a “role model and mentor to his peers.”⁵⁵ In 2009, he received a letter from then-warden of MCF-Stillwater, John King, which reads in part:

⁵⁰ See Ex. 8 for a summary of Nunn’s DOC education and programming; *see also* Nunn Affidavit, ¶ 4 (verified by Confidential Ex. C16 at 3); *see* Minn. Stat. § 13.85, subd. 4.

⁵¹ See Ex. 8.

⁵² See *id.*

⁵³ See Nunn Affidavit, ¶ 7 (verified by Confidential Ex. C16 at 7); *see* Minn. Stat. § 13.85, subd. 4.

⁵⁴ Nunn Affidavit, ¶ 7 (verified by Confidential Ex. C16 at 3, 6, 7); *see* Minn. Stat. § 13.85, subd. 4.

⁵⁵ Confidential Ex. C16 at 6); *see* Minn. Stat. § 13.85, subd. 4.

I want to commend you for the significant contributions you have made to the facility in the area of Restorative Justice. Specifically, your development and instruction in the ‘RJ 101’ class is an excellent contribution to the community inside the walls . . . The pasture you till today will cultivate seeds of success!⁵⁶

Nunn also served as a mental health mentor through the Transitions Services Program, providing daily support to other inmates who deal with severe and persistent mental illness.⁵⁷ Staff members expressed appreciation for his six years of mentoring some of the system’s most challenging inmates. One staff member noted:

Without fail, you offered your support and knowledge of the system to all participants in the program. I appreciate your flexibility, tolerance, and overall respect you showed the men in the program. Please know you laid a solid foundation for future mentors.⁵⁸

Further, Nunn is an ordained minister who has served as a mentor and spiritual leader to many incarcerated and formerly incarcerated people. Charles Harvey, who was Minister and Director of the Prison Ministry at Real Believers Faith Center, met Nunn in 2013. Harvey describes Nunn as having a “steadfast commitment to his goals” and an “unwavering drive to uplift others.”⁵⁹

Since being placed on work release in 2023, Nunn continues to work on Restorative Justice initiatives in the community. The DOC has approved Nunn to speak with life-sentence groups at Lino Lakes and Faribault correctional facilities.⁶⁰ He is a volunteer facilitator at the Salvation Army and leads a weekly support group to assist, encourage, and empower individuals in recovery

⁵⁶ Ex. 9.

⁵⁷ Ex. 10.

⁵⁸ *Id.*

⁵⁹ *See* Ex. 15(A).

⁶⁰ Nunn Affidavit, ¶ 13 (verified by Confidential Ex. C17 at 2); *see* Minn. Stat. § 13.85, subd. 4.

and community re-entry.⁶¹ Nunn is also a minister and weekly volunteer at Real Believers Faith Center church under Bishop Larry and Dr. Sharon Cook.⁶²

C. Nunn worked throughout his incarceration and has continued to work and succeed on work release.

Although Jerome Nunn did not have meaningful employment prior to his incarceration, he has worked continuously during his time in prison.⁶³ When asked for a 2022 DOC Comprehensive Risk Assessment study about his work in prison, Nunn commented: “I enjoy working – it’s a privilege. I’m thankful to be counted on, I honor it.”⁶⁴ His work supervisor in the DOC garment shop described Nunn as “respectful, responsible, helpful, and knowledgeable.”⁶⁵

Since being placed on supervised work release in 2023, Nunn has participated in work skills training at Access Ability Inc., in Minneapolis, where he printed shirts and worked in facility maintenance.⁶⁶ By June of 2023, he was hired as a laborer at Second Chance Recycling Center, and then he secured a higher paying machine-operator position at RAO Manufacturing in Fridley in November of 2023. According to an MN DOC progress report to the Supervised Release Board Members:

[Nunn] excelled with his employer and always received positive feedback. However, given it has always been Nunn’s passion to give back to his community and work more in the restorative justice area, he continued to look for other work opportunities.⁶⁷

⁶¹ See Ex. 15(E) (verified by Confidential Ex. C17 at 2); see Minn. Stat. § 13.85, subd. 4.

⁶² See Nunn Affidavit, ¶ 8 (verified by Confidential Ex. C16 at 5); see Minn. Stat. § 13.85, subd. 4.

⁶³ See *id.*, ¶ 6 (verified by Confidential Ex. C16 at 5); see Minn. Stat. § 13.85, subd. 4.

⁶⁴ Confidential Ex. C16 at 5); see Minn. Stat. § 13.85, subd. 4.

⁶⁵ *Id.*

⁶⁶ See Nunn Affidavit, ¶ 10 (verified by Confidential Ex. C17 at 1); see Minn. Stat. § 13.85, subd. 4.

⁶⁷ *Id.*

Consistent with this goal, in May of 2024, Nunn accepted a position with EMERGE Community Development,⁶⁸ where he works as a re-entry program specialist, directing people who are in transition to suitable services.⁶⁹ This position provides Nunn with both increased pay and benefits.⁷⁰

When not working at EMERGE, Nunn is a “lived experience” consultant for the DOC in two areas for which he receives consulting fees: MN DOC Housing Stabilization Services and MN DOC Victim Services & Restorative Justice Unit.⁷¹ He provides feedback for the design and implementation of new services and resources for DOC’s Housing Stabilization Services.⁷² As a Restorative Justice consultant, he is working to form a community committee like the one he helped establish within the prison system. Victim-services program lead, Elizabeth Richards, described his involvement in this way:

Jerome has been actively engaged with meetings as part of a team of consultants. He has played a significant role in creating the vision and mission for the RJ Committee[.] Jerome has assisted with recruiting applications for the RJ Committee. In the coming months, he will be part of the interview process, selecting and orientating the 12 people who will comprise the RJ Committee. Jerome has contributed valuable insights into the restorative justice work Jerome continues to live restoratively and is an example for others.⁷³

⁶⁸ *Id.* EMERGE is a non-profit organization committed to aiding individuals who have criminal backgrounds, helping them to find meaningful employment and careers. *See* <https://emerge-mn.org/>. EMERGE offers some of the following services: financial aid, housing resources, specialized job training, career coaching and a team holistic support. *See id.*

⁶⁹ *See* Exs. 15(B), (D).

⁷⁰ *See* Nunn Affidavit, ¶ 12 (verified by Confidential Ex. C17 at 1); *see* Minn. Stat. § 13.85, subd. 4.

⁷¹ *See* Nunn Affidavit, ¶ 13 (verified by Confidential Ex. C17 at 1); *see* Minn. Stat. § 13.85, subd. 4.

⁷² *Id.* (citing Elizabeth Richards).

⁷³ *Id.* (citing Elizabeth Richards).

D. Nunn has exhibited excellent conduct while incarcerated and since transitioning to work release.

Free from any disciplinary infractions since May of 1996, Nunn's behavioral record while incarcerated has been spotless for more than two decades. DOC documents show that Nunn was cited for only three minor discipline infractions during his 28 years of incarceration, and they all occurred during his first three months in prison. Records reflect that he received the sanction of "loss of privileges" for each infraction, occurring on February 3, March 24, and April 1, of 1996.⁷⁴

Since being placed on work release, Nunn experienced one program violation for practicing for his driver's road test without express permission. While practicing for his driving test, he did not violate any laws. Rather, Nunn was with a licensed driver, and had his permit, proof of insurance and registration. He had also received permission to take his driver's test, and the case manager for his halfway was observing the entire time he was practicing. Nunn received a 30-day pass restriction and has had no other program violations.⁷⁵

V. PRIOR CRIMINAL CONVICTIONS, CHARGES, AND SENTENCING DISPOSITIONS REFLECT NO PRIOR PERIODS OF INCARCERATION.⁷⁶

Information on Nunn's prior criminal charges, convictions, and dispositions are listed in Exhibit 11(A).⁷⁷ In summary, prior to this case, Nunn's juvenile and adult criminal record consisted of charges and convictions for marijuana and weapons possession. There were no prior convictions for assaultive or victim-related crimes. Nunn has a juvenile adjudication for felony possession of a handgun by a person under age 18, and a juvenile gross misdemeanor charge for possession of a

⁷⁴ See Confidential Ex. C16 at 6; Confidential Ex. C21 at 2.

⁷⁵ Nunn Affidavit, ¶ 15 (verified by Confidential Ex. C17-18), see Minn. Stat. § 13.85, subd. 4.

⁷⁶ See Minn. Stat. § 609.133, subd. 4(a)(7).

⁷⁷ See also Confidential Ex. C19 at 2-3; see Minn. Stat. § 13.85, subd. 4.

small amount of marijuana.⁷⁸ Nunn's young adult offenses include dismissed charges of fifth degree assault and disorderly conduct; a conviction for gross misdemeanor carrying a weapon without a permit; and a dismissed charge of fifth degree possession of a controlled substance.⁷⁹ Nunn was on probation on the gross misdemeanor of possession of a pistol without a permit when sentenced on this case.⁸⁰

VI. NUNN SOUGHT AND RECEIVED A COMMUTATION IN 2023 AND A STAY OF IMPOSITION ON A GROSS MISDEMEANOR IN 1994.⁸¹

As explained above, Nunn sought and received a commutation of his 180-month sentence from the Board of Pardons in January of 2023.⁸² He applied for the commutation on April 22, 2022. *See* Index #140.

Nunn received a stay of imposition for two years in Ramsey Court Case Number 62-K5-93-002628 for Carrying Weapons Without a Permit.⁸³ The murder and attempted murder convictions in this case occurred within two years, and it appears that Nunn was ultimately convicted of a gross misdemeanor in the Ramsey County case.⁸⁴

The State does not believe Nunn made any other requests for expungement or other relief described above or received any other stays of imposition or stays of adjudication.

⁷⁸ *Id.*; Ex. 11(A).

⁷⁹ *Id.*; Ex. 11(A).

⁸⁰ *See* Ex. 11(A)-(C); Confidential Ex. C16 at 6; *see* Minn. Stat. § 13.85, subd. 4.

⁸¹ Minn. Stat. § 609.133, subd. 4(a)(9) requires the State to include in the Petition: All prior requests by the individual, whether for the present offense or for any other offenses in this state or any other state or federal court, for pardon, return of arrest records, or expungement or sealing of a criminal record, whether granted or not, and all stays of adjudication or imposition of sentence involving the petitioner.

⁸² Ex. 4.

⁸³ *See* Exs. 11(A), 11(C); Confidential Ex. C16 at 6; *see* Minn. Stat. § 13.85, subd. 4.

⁸⁴ *See* Exs. 11(A)-(C).

CONCLUSION

In his 28 years of incarceration, Nunn has successfully heeded the call of Judge Somerville and Danielle Jones at his sentencing hearing to turn his life around. Through his extensive efforts at rehabilitation, Nunn has demonstrated that he is no longer a threat to public safety and that his life sentence no longer serves the interests of justice or is an effective use of correctional resources. For all of these reasons, the State respectfully requests that the Court find substantial and compelling reasons to grant the State's Petition and adjust Nunn's sentence to time served.

Dated: October 16, 2024

Respectfully submitted,

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⁸⁵ See Affidavit of the University of St. Thomas School of Law Resentencing Project.