

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF DAKOTA

FIRST JUDICIAL DISTRICT

File No: 19HA-JV-21-814

In the Matter of the Welfare of:

Judge Joseph T. Carter

Leon Bond, III,

a Juvenile.

**FINDINGS OF FACT
CONCLUSIONS OF LAW
AND ORDER FOR EXTENDED
JUVENILE JURISDICTION**

The above-entitled matter came on for a certification hearing before Joseph T. Carter, Judge of District Court, on January 19, 2022, at the Dakota County Judicial Center in Hastings, Minnesota. Elizabeth Swank, Assistant Dakota County Attorney, appeared on behalf of the State of Minnesota. Cean Shands, Esq., represented Respondent Leon Bond III, a juvenile.

Based on the file, record, and proceedings, the Court enters the following:

FINDINGS OF FACT

1. Respondent Leon Bond III (Bond) is 18 years old having been born on June 23, 2003.
2. A Juvenile Petition, filed October 28, 2021, contains several felony criminal counts, which are as follows:
 - a. Murder in the Third Degree (Perpetrating Eminently Dangerous Act and Evincing Depraved Mind), against Dalton Ford, in violation of Minn. Stat. § 609.195 (a), § 609.11, subd. 4.
 - b. Murder in the Third Degree (Perpetrating Eminently Dangerous Act and Evincing Depraved Mind), against Tayler Garza, in violation of Minn. Stat. § 609.195 (a), § 609.11, subd. 4.
 - c. Criminal Vehicular Homicide (Gross Negligence), against Dalton Ford, in violation of Minn. Stat. § 609.2112, subd. 1(a)(1).

- d. Criminal Vehicular Homicide (Gross Negligence), against Tayler Garza, in violation of Minn. Stat. § 609.2112, subd. 1(a)(1).
 - e. Criminal Vehicular Operation resulting in Great Bodily Harm (Gross Negligence), against C.M.B., in violation of Minn. Stat. § 609.2113, subd. 1(1).
3. According to the Petition, on April 4, 2021, at 10:32 a.m., a white Chrysler 200, driven by Respondent was travelling eastbound on County Road 42 between Burnsville Parkway and Newton Avenue, in Dakota County, Minnesota, at a high rate of speed. It was traveling side by side with a Chevy Malibu driven by the Juvenile's sister. They were drag racing. At times, Respondent was traveling more than 90 miles per hour. Both Respondent and his sister had front seat passengers in their vehicles. As Respondent approached Newton Avenue, a Honda pulled into the left turn lane of westbound County Road 42 to cross onto Newton Avenue. The driver of the Honda proceeded to cross County Road 42, Respondent t-boned the Honda causing it to split in half. The vehicle driven by Respondent's sister almost hit the Honda as well. Both the driver of the Honda and his front seat passenger died at the scene of the accident. According to a crash reconstruction report, Respondent was going between 93 and 100 miles per hour at the point of impact with the Honda. The posted speed limit at the intersection is 50 miles per hour. The reconstruction report indicates that the primary contributing factor for the crash was excessive speed, and the secondary contributing factor was racing and the Honda turning left into the path of Respondent's vehicle.
4. During an interview with a probation officer who conducted a certification study, Bond told her, among other things, that on the day of the incident, he and his

family were going to attend church, that his mother left early, and that he planned to drive to church with his two siblings. Bond stated that he was traveling on County Road 42 when another vehicle approached the intersection to cross over County Road 42 without stopping. He decided to “speed up” in order to get in front of that car, which caused the accident.

5. Bond’s prior delinquency history consists of the following offenses:

Offenses	Offense Date	Plea	Disposition
Disorderly Conduct 19HA-JV-18-1740	September 20, 2018	April 16, 2019	Stay of Adjudication
Theft 19HA-JV-19-1888	November 29, 2019	January 25, 2021	Continued for dismissal for 90 days
Assault – 5 th Degree 19HA-JV-21-21	December 30, 2020	January 25, 2021	Adjudicated Delinquent with probation to DCCC indefinitely: <ul style="list-style-type: none"> - 20 hours CWS - Apologize to victim - Mental health screening - Remain law-abiding - Attend victim empathy program
Traffic Control Violation (petty) 19AV-VB-21-191	January 8, 2021	February 18, 2021	Matter was dismissed after successful completion of probation

6. On October 28, 2021, a Petition and Motion for Presumptive Adult Certification was filed.
7. On December 27, 2021, Julie Eckstrom, an experienced Dakota County Juvenile Probation Officer, filed a Certification Study Report, which recommends that this matter proceed under Extended Juvenile Jurisdiction.
8. On December 28, 2021, Dr. Tricia Aiken, a Board-Certified Forensic Psychologist, filed a Certification Study Report. Her Report recommends that Bond be certified as an adult.
9. Both reports were received into evidence at the Certification Hearing.

10. Dr. Tricia Aiken, a forensic psychologist, works at Minneapolis Forensic Psychological Services, LLC. She is experienced at writing certification studies.
11. She interviewed Bond on November 24, 2021. She recommends that Bond be certified as an adult based on four of the six factors under Minn. Stat. § 260B.125, subd. 4: seriousness of the alleged offense, culpability, adequacy of punishment, and dispositional options available in the juvenile justice system. At the hearing, she testified that the third factor—the child’s prior delinquency—favored Bond remaining in the juvenile justice system because he did not have a significant criminal history. During the hearing, Dr. Aiken emphasized that she recommended certification on some of the factors, in large part, because of Bond’s age. He is 18 years old; the programming he would be subject to under extended juvenile jurisdiction will not be long enough to have a meaningful effect on rehabilitating him.
12. Dr. Aiken had Bond submit to psychological testing, including the Minnesota Multiphasic Personality Inventory-2nd Edition-Restructured Form (MMPI-2-RF) and the Structured Assessment of Violence Risk in Youth (SAVRY).
13. On the SAVRY test, Bond scored in the Moderate range for risk of recidivism without any intervention. Twenty-four risk factors were scored – Bond rated low in twelve, moderate in nine, and high in three. Moreover, four of the protective factors scored were present and two were not.
14. Julie Eckstrom, a juvenile probation officer who has conducted other EJJ studies, recommended that Bond not be certified and that the matter be placed under Extended Juvenile Jurisdiction. Her recommendation is based primarily on prior

delinquency history, programming history, and dispositional options available in the juvenile justice system.

15. During his incarceration at the Juvenile Detention Facility, Bond has been cooperative with the structure of the facility and respectful toward staff. Following some behavioral incidents during the first few weeks there, including one incident in which Bond stated he would tear the place down if not released, his behavior has improved, and he has shown leadership among his peers in the Juvenile Detention Facility.

16. Based on the trial testimony, exhibits, and file, as they affect the six factors regarding whether to certify a juvenile for adult prosecution, this Court finds as follows:

a. Seriousness of the Offenses: Bond has been charged with five criminal offenses, the most serious of which is Murder in the Third Degree. These charges, if certified, carry a presumptive commit to prison ranging from 128-180 months.

Bond was travelling approximately 41-64 miles per hour over the speed limit at the time of the collision with another vehicle. The other vehicle was split in half, and Bond's vehicle caught fire. Bond admitted to police that he and his sister had a discussion, while awaiting a red stoplight at a prior intersection, about which of their cars could accelerate at a faster rate. The accident resulted in the death of two young people. Moreover, Bond's twin sister, a passenger in his vehicle, suffered several serious injuries that resulted in her being admitted to the ICU and having to undergo approximately 16 surgeries. Undeniably, the nature and results of the incident were extremely serious.

No aggravating factors, as outlined in the Minnesota Sentencing Guidelines, were found. The victims' parents want Bond to be tried as an

adult. Bond's twin sister wants him to return home. This factor favors certification.

- b. Culpability: Bond is responsible for the decisions that led to the current incident. Although there is no indication of any pre-planning beyond deciding to race at a prior intersection, Bond was the primary participant and his decision to race was a direct cause of the crash that killed two people. The use of alcohol or other mood-altering substances were not present by anyone involved in the collision. Bond was of sound mind when he decided to engage in a car race; he is completely culpable for his role in the accident. There are no mitigating factors regarding his role in the accident. This factor favors certification.
- c. Prior Delinquency Record: Bond has no prior felony record. He has previously admitted to the following offenses: Disorderly Conduct; Theft; Assault in the 5th Degree; and a Traffic Control Violation. He successfully completed probation in the disorderly conduct matter that had been amended from a misdemeanor assault charge, which was eventually dismissed. At the time of the instant matter, he was on supervised probation to Dakota County Community Corrections for a different assault charge and a theft matter. Nevertheless, his criminal history is limited. This factor favors extending juvenile jurisdiction.
- d. Programming history: Bond has a limited history of significant programming. He successfully engaged in and completed probation and work service in a prior juvenile delinquency matter. He has never been placed outside the home nor received any significant treatment or counseling in the past. While in the Juvenile Detention Center, he has responded well to programming and, with the exception of a few incidents at the time of his initial incarceration, his behavior has been good. His school records indicate that he was involved in several behavioral incidents; the records do not note whether he received any significant programming. At the time of the accident, Bond had a job, and he told Dr. Aiken that he has worked since he was 14 years old. This factor favors extending juvenile jurisdiction.

- e. Adequacy of Punishment or Programming in Juvenile System: If certified to stand trial as an adult, Bond would face a presumptive commitment to the Commissioner of Corrections. Under extended juvenile jurisdiction, he would be supervised until the age of 21, he is currently 18 years old. In the report by Dr. Aiken, the only treatment recommendations were therapy to address the following: behavioral issues, criminogenic thinking, relationships, and stress management. Although Dr. Aiken recommended certification on this factor based on Bond's age, she noted that "Leon seems most appropriate for standard correctional programming in a facility such as Red Wing if he is found guilty of this offense."¹

Dr. Aiken testified that Bond does not have many of the needs that might require specialized or intensive programming. She supports certification for this factor primarily because Bond is 18 years old.

According to Julie Eckstrom's report, correctional programming for Mr. Bond, if he is placed on EJJ, could range from 6-21 months with some placements allowing a longer placement. Additionally, extended juvenile jurisdiction would also provide for the imposition or execution of an adult sanction if Bond failed to successfully complete programming, violated the terms of his probation, or committed a new offense. Although the term of supervision for EJJ is shorter than the presumptive commitment if Bond was certified as an adult, the nature of programming in a juvenile facility is appropriate to meet his needs. This factor supports extended juvenile jurisdiction.

- f. Dispositional Options: Treatment options are available to Bond in the juvenile justice system. According to Dakota County Community Corrections, he would be eligible for at least three different programs: Dakota County Juvenile Service Center Long Term Program or Minnesota Correctional Facility (MCF) – Red Wing, which has two possibilities for treatment. Treatment in the Dakota County Juvenile Services Center would provide various programming, including therapy and education, two types of programming that Dr. Aiken

¹ See Exhibit 03, Dr. Aiken's Certification Study, pg. 12

endorsed as suitable to Bond's needs. If placed at MCF-Red Wing, he could be directed to programs ranging from 7 ½ to 21 months. According to Community Corrections, both programs at MCF-Red Wing include treatment while in the program and referrals and transition planning upon discharge from the program. Although the term of incarceration would be less if Bond is placed under EJJ, there are programming options available in the juvenile justice system for him while he is incarcerated. This factor favors extended juvenile jurisdiction.

CONCLUSIONS OF LAW

1. At a certification hearing, the Court accepts the allegations set forth in the Petition as true. *In re Welfare of A.N.J.*, 521 N.W.2d 889, 893 (Minn. Ct. App. 1994). Accordingly, Respondent is presumed guilty of the alleged offenses. *In re Welfare of U.S.*, 612 N.W.2d 192, 195 (Minn. Ct. App. 2000).
2. A presumption exists that a proceeding involving an offense committed by a child will be certified if the child was 16 or 17 years old when the offense was committed and the offense would result in a presumptive commitment to prison under the Sentencing Guidelines and statutes. Minn. Stat. § 260B.125, subd. 3 (2009). In this case, Respondent was 17 years old on April 4, 2021, when these offenses were allegedly committed, and a conviction on any of the offenses would result in a presumptive commitment to prison. On the most serious offense, murder in the third degree, the presumptive sentence is 150 months. This matter, therefore, involves a presumptive certification under Minn. Stat. § 260B.125, subd. 3.
3. In a presumptive certification hearing, Respondent has the burden of proving by clear and convincing evidence that retaining the proceeding in juvenile court

serves public safety. Minn. R. Juv. Del. P 18.05, subd. 4E. In determining whether public safety is served by designating a child to Extended Juvenile Jurisdiction, the Court has to consider the six factors enumerated under Minn. Stat. § 260B.125, subd. 4, giving greater weight to the seriousness of the alleged offenses and Respondent's prior record of delinquency.

4. In considering the six factors under the statute, four of them favor Bond being placed under extended juvenile jurisdiction. In weighing the factors and giving greater weight to the seriousness of the offense and the juvenile's prior delinquency record, the presumption for certification has been rebutted.
5. Respondent has overcome the presumption that he should be certified to adult court for prosecution. In this case, Extended Juvenile Jurisdiction will adequately address public safety.

ORDER

1. The State's Motion to certify the juvenile for adult court prosecution on all charges is denied.
2. The juvenile shall remain at the Juvenile Detention Center in Dakota County.
3. All previous orders in this matter shall remain in full force and effect.
4. Court Administration shall schedule this matter for a First Appearance in Dakota County Juvenile Court.

March 11, 2022

BY THE COURT

 Carter,
Joseph
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Joseph T. Carter
Judge of District Court