

Department of Correctional Services
Special Investigative Committee of the Legislature

Senators:

Steve Lathrop – Chair
Les Seiler – Vice-chair
Kate Bolz
Ernie Chambers
Bob Krist
Heath Mello
Paul Schumacher

Continued

Hearing date: 9/4/2014

Testifiers:

Linda Willard
John Freudenberg
Ron Reithmuller
Jeannene Douglass
Kyle Poppert
George Green
Sharon Lindgren
Kathy Blum

From: Hohnstein, Kathy
Sent: Thursday, January 24, 2013 9:56 AM
To: Gibson-Beltz, Cathy
Subject: RE

FYI: waived his PCH. He also waived his appearance at his Review Hearing on 2-5-13. He pled not guilty to Misdemeanor 3rd Degree Assault & a Pre-trial Conference is set for 2-11-13. He also pled not guilty to Possession of Open Container & trial is set for 3-6-13. He will remain at the Scotts Bluff County Jail in Gering until we're notified all charges have been disposed of, they dismiss the charges or they tell us he can be returned & they will pursue the charges at a later date.

Kathy J. Hohnstein
Hearing Officer
Adult Parole Administration
P.O. Box 94661
Lincoln, NE 68509-4661
402-479-5720
kathy.hohnstein@nebraska.gov

From: Gibson-Beltz, Cathy
Sent: Wednesday, January 23, 2013 2:28 PM
To: Hohnstein, Kathy
Subject: FW:

Go down several email and look at Jeannene's.

From: Blum, Kathy
Sent: Wednesday, January 23, 2013 10:45 AM
To: Gibson-Beltz, Cathy; Poppert, Kyle; Douglass, Jeannene; Robinson, Hank; Smith, Dawn Renee; Hopkins, Frank; Green, George
Subject: RE:

Yes.

Kathleen A. Blum
Associate Legal Counsel
Nebraska Department of Correctional Services
Phone: 402-479-5901
Fax: 402-479-5623
E-mail: kathy.blum@nebraska.gov

From: Gibson-Beltz, Cathy
Sent: Wednesday, January 23, 2013 10:44 AM
To: Blum, Kathy; Poppert, Kyle; Douglass, Jeannene; Robinson, Hank; Smith, Dawn Renee; Hopkins, Frank; Green,

114

George

Subject: RE:

Got it...so we will bring him back for revocation, provided we find cause.....otherwise, it will have to be a rescission....correct, Kathy?

From: Blum, Kathy

Sent: Wednesday, January 23, 2013 10:43 AM

To: Gibson-Beltz, Cathy; Poppert, Kyle; Douglass, Jeannene; Robinson, Hank; Smith, Dawn Renee; Hopkins, Frank; Green, George

Subject: RE:

as arrested for 3rd Degree Assault and is being held in Scottsbluff County jail on that charge. The current Scottsbluff County Attorney was familiar with ■ prior sentence and questioned how he was out

Kathleen A. Blum
Associate Legal Counsel
Nebraska Department of Correctional Services
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Fax: 402-479-5623
E-mail: kathy.blum@nebraska.gov

From: Gibson-Beltz, Cathy

Sent: Wednesday, January 23, 2013 10:40 AM

To: Wayne, Larry; Poppert, Kyle; Douglass, Jeannene; Blum, Kathy; Robinson, Hank; Smith, Dawn Renee; Hopkins, Frank; Green, George

Subject: RE:

We will get him picked up....I assume this will be a rescission and not a revocation?

From: Wayne, Larry

Sent: Wednesday, January 23, 2013 10:39 AM

To: Poppert, Kyle; Douglass, Jeannene; Blum, Kathy; Robinson, Hank; Gibson-Beltz, Cathy; Smith, Dawn Renee; Hopkins, Frank; Green, George

Subject: RE:

I expect we'll be picking him up and bringing him back. Make sure George is on the same page. Thanks.

Larry Wayne
Deputy Director
Programs and Community Services
Nebraska Department of Correctional Services
P.O. Box 94661
Lincoln, NE 68532-4661
Office: 402 479-5721
Cell:

From: Poppert, Kyle
Sent: Wednesday, January 23, 2013 10:27 AM
To: Douglass, Jeannene; Blum, Kathy; Robinson, Hank; Gibson-Beltz, Cathy; Smith, Dawn Renee; Wayne, Larry; Hopkins, Frank; Green, George
Subject: RE

Based upon the additional information we received today, I believe we should take _____ into custody and house him at DEC pending a classification action.

Kyle

Kyle J. Poppert
 Classification and Inmate Records Administrator
 Nebraska Department of Correctional Services
 Programs & Community Services Division
 Phone: (402) 479-5750
 Cellular*
 Fax: (402) 742-2349
Kyle.Poppert@nebraska.gov

Change is Inevitable, growth is optional.

From: Douglass, Jeannene
Sent: Wednesday, January 23, 2013 10:23 AM
To: Blum, Kathy; Poppert, Kyle; Robinson, Hank
Subject: RE

For clarification, in my previous e-mail, I used the term "commitment order" but, I should have used the term "Journal Entry on Sentencing" instead. The original court document we received in 2003 was a Commitment." Now, today from the Court, I received a "Journal Entry on Sentencing" which provides the statement "shall be punished as an habitual offender on each count."

*Jeannene Douglass
 Records Manager II
 Central Records Office
 Nebraska Department of Corrections
 PH: 402-479-5773
 E-mail: jeannene.douglass@nebraska.gov*

From: Douglass, Jeannene
Sent: Wednesday, January 23, 2013 10:15 AM
To: Blum, Kathy; Poppert, Kyle; Robinson, Hank
Subject:

<< File: lohman.pdf >>

I called the Cheyenne County District Court this morning regarding _____ to clarify his sentence and offenses. I talked with Deb Hume, Clerk of the District Court in Cheyenne County; she said that this was a case that back "in the day" (April 2003) they thought the Habitual Criminal charge could/should be a separate offense. That information was not included on the commitment order they brought with when he was admitted into NDCS in 2003. They have now made it a part of the commitment order and have faxed that document to me. I have made it a part of the permanent record (both the institution and CRO inmate file as well as the computer has been updated) and the time has been recalculated with the total combined minimum term of 20 years, mandatory minimum.

_____ is not eligible for parole until 9-3-2022 which is the same date as he will discharge from NDCS (unless he receives additional sentences and/or loses good time). We were not aware of this information when he was heard and paroled on October 26, 2012.

If you need more information from me, please let me know. I'll do what I can to assist in any way.

Thanks.

Jeannene Douglass
Records Manager II
Central Records Office
Nebraska Department of Corrections
PH: 402-479-5773
E-mail: jeannene.douglass@nebraska.gov

MEMORANDUM

To: David Cookson and James Smith
From: John Freudenberg
Re: January - February 2013 communications with DCS regarding application of good time laws to mandatory minimum sentences
Date: June 17, 2014

On January 22, 2013, I was contacted by the Scotts Bluff County Attorney Doug Warner regarding a Department of Correctional Services (DCS) inmate named _____ who had been released prematurely. Mr. Warner knew that _____ should not have not yet been released from custody by DCS. He confirmed that fact after looking into the matter and then contacted me to ask for assistance in correcting the error.

Following my discussion with Mr. Warner, I called Kathy Blum who is an attorney with the DCS. I made her aware of the premature release of _____, based upon the DCS's error in interpreting Nebraska's good time law when applied to a mandatory minimum sentence. We also discussed the DCS's erroneous application of a concurrent mandatory minimum sentence instead of a consecutive mandatory minimum sentence as ordered. Ms. Blum then brought Kyle Poppert into our conversations. They asked me to email them a copy of _____ Sentencing Order which I did. Further, they assured me that they would then take the steps necessary to locate _____ return him to incarceration, and correct his release date.

As a follow-up to our previous discussions in this matter, I sent Kathy Blum an email on February 19, 2013, providing her with the case citation for the State v. Castillas Supreme Court decision entered on February 8, 2013. In that decision, the Court verified the proper method for calculating the release date for a defendant who had received a mandatory minimum sentence.

DCS has been aware, at least since 2002, that mandatory minimum sentences are not reduced by good time. This is because Mike Kenney, the current DCS Director, was the one who appealed an erroneous decision by a district judge, which erroneously ordered the release of an inmate serving a mandatory minimum sentence. We handled the appeal at DCS'S request. The district judge's error was in concluding that good time runs on mandatory minimum sentences. In *Johnson v. Kenney*, 265 Neb. 47 (2002), the Supreme Court reversed the district judge in 2002 and the inmate remained in DCS'S prison under Kenney's custody. The Supreme Court stated in *Johnson v. Kenney*:

"From our review of the legislative history, we conclude the Legislature did not intend that good time credit under § 83-1,107(1) would apply to reduce mandatory minimum sentences imposed on habitual criminals under § 29-2221. Interpretation of a statute presents a question of law, in connection with which an appellate court has an obligation to reach an independent conclusion irrespective of the decision made by the court below.

. . .

The trial court erred in finding that good time credit under § 83-1,107(1) applies to mandatory minimum sentences . . ."

Note: I not aware of what date _____ was actually returned to incarceration but he died in custody on November 30, 2013. Further, in reviewing the DCS website _____ projected release date was still in error.

I have attached to this memo a copy of the emails I received from Mr. Warner first detailing the problem: to Ms. Blum with a copy of _____ Sentencing Order; Mr. Poppert acknowledging his receipt of my email and letting me know that they were going to look into the matter; and an email I sent to Ms. Blum with the *State v. Castillas* citation. I have also attached a copy of _____ DCS'S information sheet.

 [West Reporter Image \(PDF\)](#)

285 Neb. 174, 826 N.W.2d 255

[Briefs and Other Related Documents](#)
[Judges and Attorneys](#)

Supreme Court of Nebraska.
 STATE of Nebraska, Appellee,
 v.
 David G. CASTILLAS, Appellant.

No. S-11-685.
 Feb. 8, 2013.

Background: Defendant was convicted in the District Court, Douglas County, [Gary B. Randall, J.](#), of two counts of discharging a firearm at a dwelling while in or near a motor vehicle, one count of second degree assault, and three counts of use of a deadly weapon to commit a felony. He appealed.

Holdings: The Supreme Court, [Wright, J.](#), held that:

- (1) photographs of defendant holding a rifle were admissible;
- (2) evidence was sufficient to support convictions;
- (3) jury could be instructed on voluntary flight;
- (4) sentence of 30 to 80 years was valid even though it did not match trial court's stated intention that defendant be eligible for parole after 25 years.

Affirmed.

West Headnotes

[1]  [KeyCite Citing References for this Headnote](#)

 [110 Criminal Law](#)

 [110XVII Evidence](#)

 [110XVII\(F\) Other Misconduct by Accused](#)

 [110XVII\(F\)1 Other Misconduct as Evidence of Offense Charged in General](#)

 [110k368.2 k. Discretion of court in general. Most Cited Cases](#)

 [110 Criminal Law](#)  [KeyCite Citing References for this Headnote](#)

 [110XXIV Review](#)

 [110XXIV\(N\) Discretion of Lower Court](#)

 [110k1153 Reception and Admissibility of Evidence](#)

 [110k1153.5 k. Other offenses. Most Cited Cases](#)

It is within the discretion of the trial court to determine relevancy and admissibility of evidence of other wrongs or acts, and the trial court's decision will not be reversed on appeal absent an abuse of discretion. West's [Neb.Rev.St. §§ 27-403, 27-404\(2\)](#).

[2]  [KeyCite Citing References for this Headnote](#)

 [110 Criminal Law](#)

 [110XXIV Review](#)

 [110XXIV\(P\) Verdicts](#)

 [110k1159 Conclusiveness of Verdict](#)

- ◊ 110k1159.2 Weight of Evidence In General
 - ◊ 110k1159.2(9) k. Weighing evidence. Most Cited Cases

- ◊ 110 Criminal Law  KeyCite Citing References for this Headnote
 - ◊ 110XXIV Review
 - ◊ 110XXIV(P) Verdicts
 - ◊ 110k1159 Conclusiveness of Verdict
 - ◊ 110k1159.3 Conflicting Evidence
 - ◊ 110k1159.3(1) k. In general. Most Cited Cases

- ◊ 110 Criminal Law  KeyCite Citing References for this Headnote
 - ◊ 110XXIV Review
 - ◊ 110XXIV(P) Verdicts
 - ◊ 110k1159 Conclusiveness of Verdict
 - ◊ 110k1159.4 Credibility of Witnesses
 - ◊ 110k1159.4(1) k. In general. Most Cited Cases

- ◊ 110 Criminal Law  KeyCite Citing References for this Headnote
 - ◊ 110XXIV Review
 - ◊ 110XXIV(P) Verdicts
 - ◊ 110k1159 Conclusiveness of Verdict
 - ◊ 110k1159.6 k. Circumstantial evidence. Most Cited Cases

In reviewing a sufficiency of the evidence claim, whether the evidence is direct, circumstantial, or a combination thereof, the standard is the same: an appellate court does not resolve conflicts in the evidence, pass on the credibility of witnesses, or reweigh the evidence; such matters are for the finder of fact.

[3]  KeyCite Citing References for this Headnote

- ◊ 110 Criminal Law
 - ◊ 110XXIV Review
 - ◊ 110XXIV(M) Presumptions
 - ◊ 110k1144 Facts or Proceedings Not Shown by Record
 - ◊ 110k1144.13 Sufficiency of Evidence
 - ◊ 110k1144.13(2) Construction of Evidence
 - ◊ 110k1144.13(3) k. Construction in favor of government, state, or prosecution. Most Cited Cases

- ◊ 110 Criminal Law  KeyCite Citing References for this Headnote
 - ◊ 110XXIV Review
 - ◊ 110XXIV(P) Verdicts
 - ◊ 110k1159 Conclusiveness of Verdict
 - ◊ 110k1159.2 Weight of Evidence In General
 - ◊ 110k1159.2(7) k. Reasonable doubt. Most Cited Cases

In reviewing sufficiency of the evidence to support a criminal conviction, the relevant question for an appellate court is whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.

[4]  KeyCite Citing References for this Headnote

- ◀ 110 Criminal Law
- ◀ 110XXIV Review
- ◀ 110XXIV(L) Scope of Review In General
- ◀ 110XXIV(L)4 Scope of Inquiry
- ◀ 110k1134.51 k. Instructions. Most Cited Cases

Whether jury instructions are correct is a question of law, which an appellate court resolves independently of the lower court's decision.

[5]  KeyCite Citing References for this Headnote

- ◀ 110 Criminal Law
- ◀ 110XXIV Review
- ◀ 110XXIV(N) Discretion of Lower Court
- ◀ 110k1156.1 Sentencing
- ◀ 110k1156.2 k. In general. Most Cited Cases

An appellate court will not disturb a sentence imposed within the statutory limits absent an abuse of discretion by the trial court.

[6]  KeyCite Citing References for this Headnote

- ◀ 110 Criminal Law
- ◀ 110XXIV Review
- ◀ 110XXIV(E) Presentation and Reservation In Lower Court of Grounds of Review
- ◀ 110XXIV(E)1 In General
- ◀ 110k1043 Scope and Effect of Objection
- ◀ 110k1043(1) k. In general. Most Cited Cases

◀ 110 Criminal Law  KeyCite Citing References for this Headnote

- ◀ 110XXIV Review
- ◀ 110XXIV(E) Presentation and Reservation In Lower Court of Grounds of Review
- ◀ 110XXIV(E)1 In General
- ◀ 110k1044 Motion Presenting Objection
- ◀ 110k1044.2 Sufficiency and Scope of Motion
- ◀ 110k1044.2(2) k. Renewal of motion. Most Cited Cases

Defendant waived objection to witness' testimony that he had seen defendant in possession of a rifle that was similar to rifle alleged to have been used in charged shootings, and thus claim that testimony was inadmissible was not reviewable on appeal; although defendant moved prior to trial to exclude the testimony and raised a continuing objection during direct examinations of other witnesses, he did not object or renew his motion to exclude during witness' testimony. West's Neb.Rev.St. § 25-1141.

[7]  KeyCite Citing References for this Headnote

- ◀ 110 Criminal Law
- ◀ 110XVII Evidence
- ◀ 110XVII(F) Other Misconduct by Accused
- ◀ 110XVII(F)4 Other Misconduct Inseparable from Crime Charged
- ◀ 110k368.75 k. Assault and battery. Most Cited Cases

◀ 110 Criminal Law  KeyCite Citing References for this Headnote

- ◀ 110XVII Evidence

- ☞ 110XVII(F) Other Misconduct by Accused
- ☞ 110XVII(F)4 Other Misconduct Inseparable from Crime Charged
- ☞ 110k368.96 k. Weapons and explosives. Most Cited Cases

Photographs showing defendant holding a rifle that was similar to one alleged to have been used in charged shootings were not inadmissible under rule governing other bad acts evidence, but instead were admissible as intrinsic evidence because they corroborated testimony of witnesses that defendant had access to and was in possession of a .22-caliber rifle at the time of the shootings. West's Neb.Rev.St. § 27-404(2).

[8]  KeyCite Citing References for this Headnote

- ☞ 110 Criminal Law
- ☞ 110XXIV Review
- ☞ 110XXIV(N) Discretion of Lower Court
- ☞ 110k1153 Reception and Admissibility of Evidence
- ☞ 110k1153.1 k. In general. Most Cited Cases

Where the rules of evidence commit an evidentiary question to the discretion of the trial court, the admissibility of evidence is reviewed on appeal for an abuse of discretion.

[9]  KeyCite Citing References for this Headnote

- ☞ 110 Criminal Law
 - ☞ 110XVII Evidence
 - ☞ 110XVII(D) Facts in Issue and Relevance
 - ☞ 110k338 Relevancy in General
 - ☞ 110k338(7) k. Evidence calculated to create prejudice against or sympathy for accused.
- Most Cited Cases

- ☞ 110 Criminal Law:  KeyCite Citing References for this Headnote
- ☞ 110XXIV Review
- ☞ 110XXIV(N) Discretion of Lower Court
- ☞ 110k1153 Reception and Admissibility of Evidence
- ☞ 110k1153.3 k. Relevance. Most Cited Cases

Whether evidence is unfairly prejudicial is a decision for the trial court, whose decision an appellate court will not reverse unless there is an abuse of discretion. West's Neb.Rev.St. § 27-403.

[10]  KeyCite Citing References for this Headnote

- ☞ 110 Criminal Law
 - ☞ 110XVII Evidence
 - ☞ 110XVII(D) Facts in Issue and Relevance
 - ☞ 110k338 Relevancy in General
 - ☞ 110k338(7) k. Evidence calculated to create prejudice against or sympathy for accused.
- Most Cited Cases

The fact that evidence is prejudicial is not enough to require exclusion under rule requiring exclusion of evidence whose probative value is substantially outweighed by danger of unfair prejudice, because most, if not all, of the evidence a party offers is calculated to be prejudicial to the opposing party; it is only the evidence which has a tendency to suggest a decision on an improper basis that is unfairly prejudicial. West's Neb.Rev.St. § 27-403.

[11]  KeyCite Citing References for this Headnote

↪ 110 Criminal Law

↪ 110XVII Evidence

↪ 110XVII(V) Weight and Sufficiency

↪ 110k566 k. Identity and characteristics of persons or things. Most Cited Cases

Evidence was sufficient to identify defendant as person who fired a rifle from a car at two houses, injuring a resident of one of the houses, as required to support convictions discharging a firearm at a dwelling while in or near a motor vehicle, second degree assault, and use of a deadly weapon to commit a felony; witnesses testified that they were in the car with him on nights of the shootings and saw defendant fire a rifle at the houses, and defendant had a motive to commit the shootings because he had a desire for revenge against his girlfriend's ex-boyfriend, who he believed would be inside the houses.

[12]  KeyCite Citing References for this Headnote

↪ 110 Criminal Law

↪ 110XXIV Review

↪ 110XXIV(P) Verdicts

↪ 110k1159 Conclusiveness of Verdict

↪ 110k1159.2 Weight of Evidence In General

↪ 110k1159.2(2) k. Verdict unsupported by evidence or contrary to evidence. Most Cited

Cases

↪ 110 Criminal Law  KeyCite Citing References for this Headnote

↪ 110XXIV Review

↪ 110XXIV(P) Verdicts

↪ 110k1159 Conclusiveness of Verdict

↪ 110k1159.2 Weight of Evidence In General

↪ 110k1159.2(7) k. Reasonable doubt. Most Cited Cases

Only where evidence lacks sufficient probative value as a matter of law may an appellate court set aside a guilty verdict as unsupported by evidence beyond a reasonable doubt.

[13]  KeyCite Citing References for this Headnote

↪ 110 Criminal Law

↪ 110XX Trial

↪ 110XX(L) Waiver and Correction of Irregularities and Errors

↪ 110k901 k. Rulings as to weight and sufficiency of evidence. Most Cited Cases

Defendant waived argument on appeal, that trial court erroneously denied his motion to dismiss assault and firearms charges, by calling and examining a witness after state had rested and after his motion to dismiss had been overruled.

[14]  KeyCite Citing References for this Headnote

↪ 110 Criminal Law

↪ 110XX Trial

↪ 110XX(L) Waiver and Correction of Irregularities and Errors

↪ 110k901 k. Rulings as to weight and sufficiency of evidence. Most Cited Cases

When a court overrules a defendant's motion to dismiss at the close of the state's case in chief and

the defendant proceeds to trial and introduces evidence, the defendant waives the appellate right to challenge the trial court's overruling of the motion to dismiss.

[15]  KeyCite Citing References for this Headnote

- ↪ 110 Criminal Law
 - ↪ 110XX Trial
 - ↪ 110XX(G) Instructions: Necessity, Requisites, and Sufficiency
 - ↪ 110k778 Presumptions and Burden of Proof
 - ↪ 110k778(11) k. Flight or surrender. Most Cited Cases

Jury at trial of defendant on assault and firearms charges could be instructed that it could consider defendant's voluntary flight after charged shootings in determining defendant's guilt or innocence, since there was sufficient evidence that defendant's departure from state had been a flight; witness testified that she took defendant out of town to meet a relative "days to a week" after second shooting, witness responded "yes" when asked whether defendant had requested to be taken out of town only after a detective was "kind of poking around," and witness testified that defendant had told her he wished to leave town because if police were looking for anyone they were looking for him.

[16]  KeyCite Citing References for this Headnote

- ↪ 110 Criminal Law
 - ↪ 110XXIV Review
 - ↪ 110XXIV(O) Harmless and Reversible Error
 - ↪ 110k1177.3 Sentencing and Punishment
 - ↪ 110k1177.3(2) k. Sentencing proceedings in general. Most Cited Cases
- ↪ 350H Sentencing and Punishment  KeyCite Citing References for this Headnote
 - ↪ 350HIII Sentence on Conviction of Different Charges
 - ↪ 350HIII(D) Disposition
 - ↪ 350Hk645 k. Total sentence deemed not excessive. Most Cited Cases
- ↪ 350H Sentencing and Punishment  KeyCite Citing References for this Headnote
 - ↪ 350HV Sufficiency and Construction of Sentence Imposed
 - ↪ 350HV(C) Construction
 - ↪ 350HV(C)2 Punishment
 - ↪ 350Hk1137 Conflict in Record
 - ↪ 350Hk1139 k. Oral and written pronouncements. Most Cited Cases

Total prison sentence of 30 to 80 years for two counts of discharging a firearm at a dwelling while in a vehicle, one count of second degree assault, and three counts of use of deadly weapon to commit a felony, was valid, within statutory range, and not required to be reversed for resentencing, even though, due to mathematical error, sentence did not match trial court's stated intention that defendant be eligible for parole after 25 years. West's Neb.Rev.St. §§ 29-2204(1), 83-1,107(2)(a), (3), 83-1,110.

[17]  KeyCite Citing References for this Headnote

- ↪ 350H Sentencing and Punishment
 - ↪ 350HXII Reconsideration and Modification of Sentence
 - ↪ 350HXII(B) Grounds and Considerations
 - ↪ 350Hk2252 k. Technical, formal or arithmetical error. Most Cited Cases

It is possible, in limited circumstances, to correct an inadvertent mispronouncement of a valid

sentence.

[18]  KeyCite Citing References for this Headnote

- ↳ 350H Sentencing and Punishment
 - ↳ 350HI Punishment in General
 - ↳ 350HI(E) Factors Related to Offender
 - ↳ 350Hk117 k. Other offender-related considerations. Most Cited Cases

In imposing a sentence, it is appropriate for a sentencing court to consider how good time credit affects a sentence, that is, when a defendant will be eligible for parole and mandatory release.

[19]  KeyCite Citing References for this Headnote

- ↳ 350H Sentencing and Punishment
 - ↳ 350HXII Reconsideration and Modification of Sentence
 - ↳ 350HXII(C) Proceedings
 - ↳ 350HXII(C)1 In General
 - ↳ 350Hk2278 Time
 - ↳ 350Hk2281 k. Term of court. Most Cited Cases

- ↳ 350H Sentencing and Punishment  KeyCite Citing References for this Headnote
 - ↳ 350HXII Reconsideration and Modification of Sentence
 - ↳ 350HXII(C) Proceedings
 - ↳ 350HXII(C)1 In General
 - ↳ 350Hk2278 Time
 - ↳ 350Hk2282 k. Execution or service of sentence. Most Cited Cases

When a valid sentence has been put into execution, the trial court cannot modify, amend, or revise it in any way, either during or after the term or session of court at which the sentence was imposed.

[20]  KeyCite Citing References for this Headnote

- ↳ 350H Sentencing and Punishment
 - ↳ 350HV Sufficiency and Construction of Sentence Imposed
 - ↳ 350HV(C) Construction
 - ↳ 350HV(C)2 Punishment
 - ↳ 350Hk1137 Conflict in Record
 - ↳ 350Hk1139 k. Oral and written pronouncements. Most Cited Cases

If there is a conflict between the court's sentence and its truth in sentencing advisement, the statements of the minimum and maximum limits control.

****258 Syllabus by the Court**

***174 1. Rules of Evidence: Other Acts: Appeal and Error.** It is within the discretion of the trial court to determine relevancy and admissibility of evidence of other wrongs or acts under Neb. Evid. R. 403 and 404(2), Neb. Rev. Stat. §§ 27-403 (Reissue 2008) and 27-404(2) (Cum. Supp. 2012), and the trial court's decision will not be reversed absent an abuse of discretion.

2. Criminal Law: Evidence: Appeal and Error. In reviewing a sufficiency of the evidence claim, whether the evidence is direct, circumstantial, or a combination thereof, the standard is the same: An appellate court does not resolve conflicts in the evidence, pass on the credibility of witnesses, or reweigh the evidence; such matters are for the finder of fact. The relevant question for an appellate

court is whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.

3. Jury Instructions: Appeal and Error. Whether jury instructions are correct is a question of law, which an appellate court resolves independently of the lower court's decision.

4. Sentences: Appeal and Error. An appellate court will not disturb a sentence imposed within the statutory limits absent an abuse of discretion by the trial court.

5. Rules of Evidence: Appeal and Error. Where the Nebraska Evidence Rules commit the evidentiary question at issue to the discretion of the trial court, the admissibility of evidence is reviewed for an abuse of discretion.

6. Rules of Evidence. The fact that evidence is prejudicial is not enough to require exclusion under Neb. Evid. R. 403, Neb. Rev. Stat. § 27-403 (Reissue 2008), because most, if not all, of the evidence a party offers is calculated to be prejudicial to the opposing party; it is only the evidence which has a tendency to suggest a decision on an improper basis that is unfairly prejudicial under § 27-403.

7. Verdicts: Appeal and Error. Only where evidence lacks sufficient probative value as a matter of law may an appellate court set aside a guilty verdict as unsupported by evidence beyond a reasonable doubt.

8. Motions to Dismiss: Evidence: Waiver: Appeal and Error. When a court overrules a defendant's motion to dismiss at the close of the State's case in chief and the defendant proceeds to trial and introduces evidence, the defendant waives the appellate right to challenge the trial court's overruling of the motion to dismiss.

9. Sentences. It is possible, in limited circumstances, to correct an inadvertent mispronouncement of a valid sentence.

10. Sentences. When a valid sentence has been put into execution, the trial court cannot modify, amend, or revise it in any way, either during or after the term or session of court at which the sentence was imposed.

****259 11. Sentences.** If there is a conflict between the court's sentence and its truth in sentencing advisement, the statements of the minimum and maximum limits control.

Beau G. Finley, Omaha, of Finley & Kahler Law Firm, P.C., L.L.O., for appellant.

Jon Bruning, Attorney General, and Nathan A. Liss, Lincoln, for appellee.

HEAVICAN, C.J., WRIGHT, CONNOLLY, STEPHAN, McCORMACK, and MILLER-LERMAN, JJ.

WRIGHT, J.

***175 NATURE OF CASE**

David G. Castillas was convicted of two counts of discharging a firearm at a dwelling while in or near a motor vehicle, one count of second degree assault, and three counts of use of a deadly weapon to commit a felony. He was sentenced to 5 to 20 years in prison on each conviction of discharging a firearm, 5 to 10 years in prison on the conviction of second degree assault, and 5 to 10 years in prison on each conviction of use of a weapon to commit a felony. All sentences were to be served consecutively. Castillas appeals his convictions and sentences.

SCOPE OF REVIEW

[1]  It is within the discretion of the trial court to determine relevancy and admissibility of evidence of other wrongs or acts under Neb. Evid. R. 403 and 404(2), Neb. Rev. Stat. §§ 27-403

(Reissue 2008) and 27-404(2) (Cum. Supp. 2012), and the trial court's decision will not be reversed absent an abuse of discretion. State v. Freemont, 284 Neb. 179, 817 N.W.2d 277 (2012).

[2] [3] In reviewing a sufficiency of the evidence claim, whether the evidence is direct, circumstantial, or a combination thereof, the standard is the same: An appellate court does not resolve conflicts in the evidence, pass on the credibility of witnesses, or reweigh the evidence; such matters are for the finder of fact. The relevant question for an appellate court is whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential *176 elements of the crime beyond a reasonable doubt. State v. Howell, 284 Neb. 559, 822 N.W.2d 391 (2012).

[4] Whether jury instructions are correct is a question of law, which an appellate court resolves independently of the lower court's decision. State v. Smith, 284 Neb. 636, 822 N.W.2d 401 (2012).

[5] An appellate court will not disturb a sentence imposed within the statutory limits absent an abuse of discretion by the trial court. State v. Kass, 281 Neb. 892, 799 N.W.2d 680 (2011).

FACTS BACKGROUND

On June 5, 2010, a driveby shooting occurred at the home of Donald Jones in Omaha, Nebraska. On June 11, another driveby shooting occurred at the home of William Harris, who lived with his mother at the home, also located in Omaha. During the second shooting, Harris' mother sustained a bullet wound to her left arm.

Castillas, Travis Davis, Tiffany Fitzgerald, and Brandy Beckwith were charged in connection with the shootings. On April 26, 2011, the State was granted leave to file additional charges against Castillo. It filed an amended Information charging Castillo with two counts of discharging a firearm at a dwelling while in or near a motor vehicle, one count of second degree **260 assault, and three counts of use of a deadly weapon to commit a felony.

Castillas filed a motion in limine to exclude evidence of or testimony regarding an incident following the shootings, during which Castillo allegedly possessed a firearm and brandished it at Donald Betts, a witness for the State. Castillo also moved to exclude any photographs of him handling a firearm. Castillo alleged that evidence on this issue would not be reliable or relevant, that such evidence would be excludable under § 27-404(2), and that any probative value under § 27-403 would be outweighed by unfair prejudice. He also claimed the evidence would be improper propensity evidence prohibited under § 27-404. Both motions were overruled.

*177 JURY TRIAL

Castillas' trial commenced on May 4, 2011, in Douglas County District Court. The State called Davis, Fitzgerald, and Beckwith. All three testified that on June 5, 2010, they drove with Castillo to Jones' house. They testified that Castillo and Davis shot at the residence multiple times with firearms. They also testified that on the night of the second shooting, all four individuals, along with a person named "Lars," drove to Harris' house and that Castillo and Davis each fired at the residence.

EVENTS OF JUNE 4 AND 5, 2010

On the evening of June 4, 2010, Castillo and Davis were "partying" with Fitzgerald and Beckwith. The four of them were taking photographs of themselves holding guns, to "look cool." One of the guns was a .45-caliber pistol that belonged to Davis, and the other was a .22-caliber rifle that belonged to Fitzgerald's father. Fitzgerald recalled that the photographs marked as exhibits 93, 94, 95, and 97 were taken that specific night, because she recognized the black dresses she and Beckwith were wearing.

Davis testified that Castillo and Fitzgerald argued about Betts on the night of the first shooting. Betts had been dating Fitzgerald, who was Castillo's girlfriend, and Castillo wanted revenge. Betts was the son of Jones, and he occasionally lived with Jones. Davis had never met Betts, but he became upset with Betts due to rumors that Betts had fired a weapon at Davis' car.

Sometime after midnight on June 5, 2010, Castillas accused Fitzgerald of continuing to talk to Betts. Castillas took the rifle, Davis took his pistol, and the four got into Beckwith's car. Beckwith drove, with Davis in the front passenger seat, Fitzgerald in the rear passenger seat, and Castillas in the rear driver's-side seat. Castillas gave Beckwith directions to Jones' house. As they drove past the house, Castillas and Davis both fired at it. Davis sat on "the [front passenger] window sill" and fired his pistol across the roof of the car, and Castillas fired the rifle out the back window. Davis testified he fired at least five ***178** or six shots and heard Castillas fire at least two or three shots. The group then returned to Fitzgerald's house.

Jones testified that on June 4, 2010, he lived in Omaha with his wife and three of his children. Betts occasionally resided there as well. At approximately 1:30 a.m. on June 5, while Jones and his wife were in their bedroom, a bullet was fired through the bedroom wall. The couple hid in the closet as several more shots were fired. When the shooting stopped, Jones called the 911 emergency dispatch service. He testified there were no bullet holes in his house prior to this shooting. Betts was not at the house when the incident occurred.

A crime scene technician with the Omaha Police Department crime laboratory testified that she collected shell casings ****261** lying in front of Jones' house. She found five shell casings in the street and located 23 bullet holes in the house, which appeared to have been caused by bullets of two different sizes. Several bullets from the house were placed in an envelope along with the five shell casings found in the street.

EVENTS OF JUNE 10 AND 11, 2010

On June 10, 2010, Castillas, Davis, Fitzgerald, Beckwith, and "Lars" were partying at Fitzgerald's house. Castillas mentioned that Betts "hangs out" at Harris' house, and Castillas and Davis talked about "shooting that house up." The five went in Beckwith's car. Davis was in front, and Castillas was in the rear driver's-side seat. Castillas had the same .22-caliber rifle, and Davis had a new 9-mm weapon that he had just obtained. Castillas and Davis fired at Harris' house. After the shooting, they returned to Fitzgerald's house.

Harris' mother lived in Omaha with Harris and her other son. She was asleep during the early morning hours of June 11, 2010, and was awakened when a bullet struck and passed through her left arm. She fell on the floor as several more shots were fired at her house.

OTHER TRIAL EVIDENCE

On June 11, 2010, several hours after the second shooting, Betts went to Fitzgerald's house to talk to her about the shootings. While Betts was talking to Fitzgerald outside, Castillas ***179** and Davis came outside. Castillas went back inside, and Betts saw him in an upstairs window with a gun that looked like the .22-caliber rifle used in the shootings.

Det. David Schneider attempted to speak with Fitzgerald following the shootings. Fitzgerald and Beckwith eventually went to an Omaha police station and spoke with Detective Schneider. Initially, they were untruthful, but they later admitted that they were involved in the driveby shootings and provided a detailed account. A detective went to Fitzgerald's house and seized the .22-caliber rifle, two empty magazines, and another magazine that contained 11 rounds of .22-caliber ammunition.

Davis was arrested at his residence, and police seized his .45-caliber pistol. He initially denied involvement in the shootings but subsequently provided a detailed account that matched the accounts given by Fitzgerald and Beckwith. Detective Schneider learned that Beckwith had taken Castillas to meet a family member near Crete, Nebraska, and that Castillas had gone to Texas. Castillas was apprehended in Corpus Christi, Texas, and transported back to Nebraska.

The .22-caliber rifle seized from Fitzgerald's house and the .45-caliber pistol from Davis' house were sent to the Omaha Police Department crime laboratory for ballistic comparison. A senior technician for the crime laboratory analyzed shell casings from both shootings. She testified that the five shell casings from the first driveby shooting were from a .45-caliber pistol and that two of the bullets recovered from the first shooting had characteristics that were consistent with the .22-caliber

rifle. Regarding the second driveby shooting, the technician determined that 11 shell casings were from the .22-caliber rifle, 5 were from a 9-mm weapon, and all of the bullets recovered that were suitable for comparison were consistent with a 9-mm weapon.

After the evidence was presented, the State rested. Castillas moved to dismiss all charges against him for lack of evidence. The motion was overruled, and Castillas called Fitzgerald to testify.

Following the conclusion of the testimony, the court held a jury instruction conference. ****262** Castillas objected to Instruction No. 11, which dealt with voluntary flight. His objection was ***180** overruled, and the court instructed the jury. After submission of the case, the jury found Castillas guilty of all six counts. Each of Castillas' three convictions for use of a deadly weapon to commit a felony required a mandatory minimum sentence of 5 years. See Neb.Rev.Stat. §§ 28-1205(1)(c) (Cum. Supp. 2012) and 28-105(1) (Reissue 2008). Both of his convictions for discharging a firearm at a dwelling while in or near a vehicle also required mandatory minimum terms of 5 years each. See Neb.Rev.Stat. § 28-1212.04 (Supp.2009) and § 28-105(1). His conviction for second degree assault had no mandatory minimum sentence. See Neb.Rev.Stat. § 28-309 (Supp.2009) and § 28-105(1).

CASTILLAS' SENTENCES

A sentencing hearing was held on July 28, 2011. The court stated it intended that for purposes of parole eligibility, Castillas should serve 25 years in the Nebraska Department of Correctional Services after credit for good time. It initially sentenced Castillas to aggregate consecutive prison sentences of 50 to 80 years.

After the court's first sentence pronouncement, the court inquired whether counsel agreed that Castillas would be eligible for parole consideration in 25 years. The prosecutor opined that the court's understanding was incorrect. Counsel disagreed on the calculation of parole eligibility. In response to defense counsel's statement that Castillas might not be eligible for parole for 35 years, the court stated that was not the court's intention.

Before anyone left the courtroom, the court pronounced the following sentences, which in the aggregate amounted to 30 to 80 years:

- Count I, discharging a firearm at a dwelling while in or near a motor vehicle, 5 to 20 years.
- Count II, use of a deadly weapon to commit a felony, 5 to 10 years.
- Count III, second degree assault, 5 to 10 years.
- Count IV, use of a deadly weapon to commit a felony, 5 to 10 years.
- Count V, discharging a firearm at a dwelling while in or near a motor vehicle, 5 to 20 years.
- *181** • Count VI, use of a deadly weapon to commit a felony, 5 to 10 years.

The court's "truth in sentencing" advisement informed Castillas: "That will be a total of 30 to 80 years, meaning you have to serve 25 years to be released on parole. And after 40 years, if you lose no good time, you'll be released." The court's written order directed that the sentences be served consecutively and gave Castillas credit for 379 days served.

ASSIGNMENTS OF ERROR

Castillas alleges, summarized and restated, that (1) the court erred in allowing testimony at trial concerning whether he possessed firearms after the second shooting, (2) the court erred in admitting photographs of Castillas possessing firearms, (3) the evidence at trial was insufficient, (4) the court erred in overruling Castillas' motion to dismiss at the end of the State's case, (5) the court erred in giving jury instruction No. 11 with regard to voluntary flight, and (6) the court erred in ordering a sentence that was substantially different from its intended sentence.

ANALYSIS

EVIDENCE RELATED TO POSSESSION OF .22-CALIBER RIFLE AFTER SECOND SHOOTING

[6]  The State introduced evidence that Betts went to Fitzgerald's home several ****263** hours after the second shooting. Betts saw Castillas holding a weapon that looked like the rifle Castillas was alleged to have used in both shootings. Before trial, Castillas moved to prohibit the State from presenting such testimony. The court overruled the motion.

Castillas alleges that during the trial, he was granted a continuing objection to this evidence and that, therefore, his alleged error concerning the admission of the evidence has been preserved for review on appeal. Castillas claims that admission of the evidence violated §§ 27-403 and 27-404.

Section 27-404(2) provides:

Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show that he or she acted in conformity therewith. It may, ***182** however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

Castillas asserts that the State offered no proper purpose for this evidence and that the court should have held a rule 404 hearing.

The State argues that Castillas waived any objection to this evidence by his failure to object during Betts' testimony. Although Castillas moved to exclude the evidence before trial, he did not object or renew his motion during Betts' testimony that he went to Fitzgerald's house after the second shooting and saw Castillas with a gun that looked like the .22-caliber rifle Castillas allegedly used in the shootings. The State claims that Castillas did not raise the necessary objection, because although he had received a continuing objection during the direct examinations of Davis, Fitzgerald, and Beckwith, he did not object or renew his objection during Betts' testimony.

Neb.Rev.Stat. § 25-1141 (Reissue 2008) provides:

Where an objection has once been made to the admission of testimony and overruled by the court it shall be unnecessary to repeat the same objection to further testimony of the same nature by the same witness in order to save the error, if any, in the ruling of the court whereby such testimony was received.

The State claims § 25-1141 does not apply to testimony given by a different witness when no objection is made to that witness' testimony. We agree. Castillas failed to object to Betts' testimony and has therefore waived his objection to such testimony.

PHOTOGRAPHS OF CASTILLAS, DAVIS, FITZGERALD, AND BECKWITH

[7]  During the trial, the State introduced four photographs. Three of the photographs show Castillas with a rifle that resembles the .22-caliber rifle allegedly used in the shootings; the fourth does not depict a firearm. Exhibit 93 is a photograph of Castillas holding a .22-caliber rifle and posing alongside Fitzgerald, who is holding Davis' .45-caliber pistol. ***183** Exhibit 94 is a photograph of Castillas posing by himself with a .22-caliber rifle. Exhibit 95 is a photograph of Castillas holding the rifle and posing alongside Beckwith, who is holding Davis' .45-caliber pistol. Castillas objected to these photographs, claiming they were irrelevant, were unfairly prejudicial, and violated § 27-404(2). The court overruled these objections.

Castillas claims the photographs were overly prejudicial. In support of his argument, Castillas attacks the credibility of Fitzgerald, who testified that the photographs were taken the evening of the first shooting. He asks this court to disregard ****264** such testimony, because Fitzgerald lied repeatedly to the police in order to get out of trouble and wrote false accounts of the shootings months after they occurred and because there was no other independent evidence offered to establish that the photographs were taken on the date claimed by Fitzgerald.

[8]  Where the Nebraska Evidence Rules commit the evidentiary question at issue to the

discretion of the trial court, the admissibility of evidence is reviewed for an abuse of discretion. State v. Nolan, 283 Neb. 50, 807 N.W.2d 520 (2012). Fitzgerald's credibility does not control the admission of the photographs. On appeal, we do not examine the credibility of the witnesses. Fitzgerald's testimony established that the photographs were taken near the time of the first shooting. Both Davis and Beckwith acknowledged the photographs were taken, and Beckwith acknowledged they were taken on the night of either the first or second shooting.

[9] [10] Whether the evidence was unfairly prejudicial was a decision for the trial court, whose decision we will not reverse unless there is an abuse of discretion. See *id.* The fact that evidence is prejudicial is not enough to require exclusion under § 27-403, because most, if not all, of the evidence a party offers is calculated to be prejudicial to the opposing party; it is only the evidence which has a tendency to suggest a decision on an improper basis that is unfairly prejudicial under § 27-403. State v. Williams, 282 Neb. 182, 802 N.W.2d 421 (2011). We conclude Castillas has not established that the admission of the photographs was unfairly prejudicial. The court did not abuse its discretion in admitting these photographs.

*184 Castillas' argument that the photographs should have been excluded under § 27-404(2) is also without merit. The evidence established that the photographs were taken on or near the night of the first shooting. They were admissible as intrinsic evidence because they corroborated testimony of the witnesses that Castillas had access to and was in possession of a .22-caliber rifle at the time of the shootings.

SUFFICIENCY OF EVIDENCE

[11] [12] In reviewing a sufficiency of the evidence claim, we do not resolve conflicts in the evidence, pass on the credibility of witnesses, or reweigh the evidence; such matters are for the finder of fact. See State v. Howell, 284 Neb. 559, 822 N.W.2d 391 (2012). The relevant question is whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. See *id.* Only where evidence lacks sufficient probative value as a matter of law may an appellate court set aside a guilty verdict as unsupported by evidence beyond a reasonable doubt. *Id.*

Castillas claims that the evidence was insufficient to find him guilty of any of the six counts alleged in the amended information. He claims the State failed to provide even a viable narrative of why the shootings occurred. We disagree. The evidence established that Castillas had a desire to injure Betts.

Castillas asserts that Davis had a stronger motive to commit the crimes, because Davis may have believed that Betts and Harris fired shots at Davis' car. The fact that Davis might have had a motive to injure Betts and Harris supports the evidence that both Castillas and Davis participated in the shootings.

Castillas also argues that the State's dependence upon Davis, Fitzgerald, and Beckwith to support the accusation that Castillas shot at both houses is insufficient, **265 because all three admitted to lying to police when questioned about these incidents.

These arguments have no merit. The credibility of Davis, Fitzgerald, and Beckwith is not part of our review for sufficiency of the evidence. We do not pass on the credibility of witnesses or reweigh the evidence. Viewing the evidence in the light most favorable to the State, a rational trier of fact *185 could have found beyond a reasonable doubt that Castillas committed the crimes charged. Castillas' argument that no rational trier of fact would have found him guilty of these six offenses because the State's witnesses were not credible is without merit.

MOTION TO DISMISS

[13] Castillas claims the court erred in overruling his motion to dismiss, which was made after the State presented its case in chief. After the State rested, Castillas started to make a motion to dismiss. The court stated that Castillas could defer the motion, which he did. Castillas then called Davis to the stand. Later, while the jury was on a lunch break, Castillas moved to dismiss. He claimed the State had failed to make a prima facie case against him on any of the charges. The court

overruled the motion. Castillas then called his final witness, Fitzgerald.

[14] When a court overrules a defendant's motion to dismiss at the close of the State's case in chief and the defendant proceeds to trial and introduces evidence, the defendant waives the appellate right to challenge the trial court's overruling of the motion to dismiss. State v. Dixon, 282 Neb. 274, 802 N.W.2d 866 (2011). Castillas waived his argument by calling Fitzgerald as a witness after the State had rested and after his motion to dismiss was overruled. His assignment of error is without merit.

JURY INSTRUCTION ON FLIGHT

[15] Before the case was submitted to the jury, the court gave instruction No. 11, which provided:

The voluntary flight of [Castillas] immediately or soon after the occurrence of a crime, with which [Castillas] has been charged, is a circumstance not sufficient of itself to establish guilt, but a circumstance nevertheless which you may consider in connection with all the other evidence in this case to aid you in determining the question of the guilt or innocence of [Castillas].

Whether jury instructions are correct is a question of law, which an appellate court resolves independently of the lower court's decision. State v. Smith, 284 Neb. 636, 822 N.W.2d 401 (2012). Castillas claims he was prejudiced by instruction No. 11 because the instruction forced the jury to conclude that his departure from Omaha was a flight. He argues that the jury should have been instructed in such a way that they could differentiate between the term "flight" and mere departure. He alleges that there was no way for the jury to discern the difference between flight and departure and that without a definition of flight, the jury would not be able to consider the distinction between the two. He claims there is little evidence in the record to suggest that he left Omaha to avoid apprehension or detection.

Castillas' arguments have no merit. In State v. Lincoln, 183 Neb. 770, 772, 164 N.W.2d 470, 472 (1969), this court upheld the giving of a flight instruction that stated:

"You are instructed that the voluntary flight of a person immediately or soon after the occurrence of a crime, with which the person so fleeing has been charged, is a circumstance, not sufficient of itself to establish guilt, but a circumstance nevertheless which the Jury may consider in connection with all the other evidence in the case to aid you in determining the question of the guilt or innocence of such person."

This instruction is substantively the same as the instruction given in the case at bar.

Beckwith testified that she took Castillas to Crete "days to a week" after the second shooting. She responded "[y]es" when asked whether Castillas had requested to be taken to Crete only after Detective Schnelder was "kind of poking around." Beckwith was then asked, "Did [Castillas] tell you why he wanted to be taken to Crete, Nebraska?" Beckwith responded that Castillas said that "if they were looking for anybody they were looking for him." There was sufficient evidence for the jury to infer flight, see State v. Pullens, 281 Neb. 828, 800 N.W.2d 202 (2011), and the court did not err in giving instruction No. 11 to the jury.

Additionally, Castillas did not submit a proposed jury instruction or request a more specific instruction containing a definition of flight. If he desired a more precise jury instruction, *187 Castillas should have requested one at the time the instructions were being considered. See State v. Lewis, 241 Neb. 334, 488 N.W.2d 518 (1992). His failure to offer a more specific instruction precludes his raising this objection on appeal. See State v. Sanders, 269 Neb. 895, 697 N.W.2d 657 (2005).

SENTENCING

[16] Castillas claims that the court erred by imposing sentences which failed to achieve the court's expressed intent of making Castillas eligible for parole in 25 years. An appellate court will not disturb a sentence imposed within the statutory limits absent an abuse of discretion by the trial court.

State v. Kass, 281 Neb. 892, 799 N.W.2d 680 (2011).

At the sentencing hearing, the court initially pronounced consecutive sentences resulting in an aggregate sentence of 50 to 80 years. The court stated: "It means that after 25 years, you'll be considered eligible for consideration—Is that right?" The prosecutor and defense counsel then disagreed about the calculation of parole eligibility. In response to defense counsel's statement that the sentence pronounced might make Castillas ineligible for parole for 35 years, the court stated that was not the court's intention. The court then stated:

My intention is that with the mandatory minimums, ... Castillas should serve 25 years in the Nebraska Department of Correctional Services after credit for good time. So if the numbers [minimum portion of each sentence] would add up to 30, that would give it a 25-year mandatory minimum—25-year minimum, I'm sorry. After mandatory of 20, he would have 10 years for which he would get good time credit, which would be divided in half for the 25. So we will start over.

The court sentenced Castillas to an aggregate prison sentence of 30 to 80 years: 5 to 20 years on counts I and V, for shooting at a dwelling from a vehicle, and 5 to 10 years on counts II, IV, and VI, for use of a weapon to commit a felony, and count III, for second degree assault. All sentences were to be served consecutively.

For its truth in sentencing advisement, the court informed Castillas that he would be sentenced to a total of 30 to 80 ~~*188~~ years, that he would have to serve 25 years to be released on parole, and that after 40 years, if he lost no good time, he would be released.

The statutory sentencing requirements for the charges are as follows:

- Counts I and V: discharging a firearm at a dwelling while in or near a vehicle, a ~~**267~~ violation of § 28-1212.04, Class IC felony, punishable by a mandatory minimum of 5 years and a maximum of 50 years. § 28-105(1).
- Counts II, IV, and VI: use of a deadly weapon, a firearm, to commit a felony, a violation of § 28-1205(1)(c), Class IC felony, punishable by a mandatory minimum of 5 years and a maximum of 50 years. § 28-105(1).
- Count III: second degree assault, a violation of § 28-309, Class III felony, punishable by a minimum of 1 year and a maximum of 20 years. § 28-105(1).

[17] [18] [19] It is possible, in limited circumstances, to correct an inadvertent mispronouncement of a valid sentence. State v. Clark, 278 Neb. 557, 772 N.W.2d 559 (2009). Hence, it was permissible for the court to resentence Castillas to correct the sentence to match the court's intention. The court stated its intention to structure an aggregate sentence that would result in Castillas' being eligible for parole in 25 years. In imposing a sentence, it is appropriate for a sentencing court to consider how good time credit affects a sentence, that is, when a defendant will be eligible for parole and mandatory release. See State v. Cadwallader, 230 Neb. 881, 434 N.W.2d 506 (1989). The sentences on all six convictions were within the statutory limits. And when a valid sentence has been put into execution, the trial court cannot modify, amend, or revise it in any way, either during or after the term or session of court at which the sentence was imposed. State v. Clark, supra.

Though the sentences pronounced were valid, they did not match the court's intention. The court miscalculated when Castillas would be eligible for parole and for mandatory discharge.

Parole eligibility is governed by Neb. Rev. Stat. § 83-1,110 (Reissue 2008), which provides in relevant part: "(1) Every committed offender shall be eligible for parole when the ~~*189~~ offender has served one-half the minimum term of his or her sentence as provided in § 83-1,107.... No such reduction of sentence shall be applied to any sentence imposing a mandatory minimum term." Pursuant to Neb. Rev. Stat. § 83-1,107(2)(a) and (3) (Cum. Supp. 2012), the term of a committed

offender is reduced "by six months for each year of the offender's term and pro rata for any part thereof which is less than a year," but "reductions of terms ... may be forfeited, withheld, and restored" by correctional facility officials. Section 83-1,110 makes clear that these good time reductions do not apply to mandatory minimum sentences.

In Johnson v. Kenney, 265 Neb. 47, 654 N.W.2d 191 (2002), we considered whether good time credit should be applied to the maximum portion of a sentence before the mandatory minimum sentence had been served. We held that it could not, because good time credit applies only after the mandatory minimum has been served. One of the purposes behind § 83-1,107, the good time credit statute, was to ensure that no one would reach mandatory discharge before reaching parole eligibility. We stated in Johnson v. Kenney, supra, that it would defeat the legislative intent if a defendant reached mandatory discharge before being eligible for parole, because the minimum portion of the sentence would have no meaning.

In calculating parole eligibility in State v. Kinser, 283 Neb. 560, 811 N.W.2d 227 (2012), this court held that a defendant must serve the mandatory minimum plus one-half of the remaining minimum sentence before becoming eligible for parole. A jury found William D. Kinser, Jr., guilty of felony flight to avoid arrest. After finding that he had five previous felony convictions, the district court concluded that Kinser**268 was a habitual criminal and sentenced him to a term of not less than 18 nor more than 30 years' imprisonment. Kinser argued that the sentencing order must be reversed because the court intended for him to be eligible for parole after 10 years, whereas under the sentence imposed, he would not be eligible for parole for 14 years.

We held that with the minimum sentence of 18 years, Kinser was required to serve a minimum of 10 years plus one-half of *190 the remaining 8 years before he would be eligible for parole. During sentencing, the court had stated:

"[Kinser] will be sentenced ... [o]n Count I [fleeing to avoid arrest], which is the felony, [to] not less than 18 years and not more than 30 years. The minimum will include the mandatory minimum of 10 years with a two-year revocation of his license. Those sentences will be served concurrent. I give him credit for 190 days that he has served."

Id. at 568-69, 811 N.W.2d at 233.

On appeal, Kinser claimed that the district court erred in sentencing him as a habitual criminal and in imposing an erroneous sentence. We found that the sentencing court did not clearly state that Kinser would be eligible for parole after serving 10 years, but that even if it had, the question would be resolved by Neb.Rev.Stat. § 29-2204(1) (Reissue 2008). Any discrepancy between the minimum sentence of 18 years for Kinser's flight to avoid arrest conviction and the statements of the sentencing court regarding parole eligibility would be controlled by the court's statements with regard to the minimum sentence. Pursuant to our holding in Johnson v. Kenney, 265 Neb. 47, 654 N.W.2d 191 (2002), good time credit would not reduce the 10-year mandatory minimum portion of Kinser's sentence for flight to avoid arrest. Thus, assuming no loss of good time credit, Kinser was required to serve the 10-year mandatory minimum plus 4 of the remaining 8 years of the minimum sentence, less credit for time served, before becoming eligible for parole.

Logically, a defendant must serve the mandatory minimum portion of a sentence before earning good time credit toward the maximum portion of the sentence. Johnson v. Kenney, supra, indicates that a defendant receives no good time credit until after serving any mandatory minimum. Thus, a defendant would be unable to earn good time credit against either the minimum or maximum sentence until the defendant had served the mandatory minimum sentence. As noted in State v. Kinser, supra, the parole eligibility date is determined by subtracting the mandatory minimum sentence from the court's minimum sentence, halving the difference, and adding that difference to *191 the mandatory minimum. Similarly, the mandatory discharge date is computed by subtracting the mandatory minimum sentence from the maximum sentence, halving the difference, and adding that difference to the mandatory minimum.

Mandatory minimum sentences cannot be served concurrently. A defendant convicted of multiple

counts each carrying a mandatory minimum sentence must serve the sentence on each count consecutively.

Accordingly, the court was required to sentence Castillas to consecutive terms for each conviction carrying a mandatory minimum. The court incorrectly computed Castillas' parole eligibility date because it mistakenly used 20 years as the mandatory minimum sentence instead of the required 25 years. Five of the convictions were Class IC felonies, each carrying a mandatory 5-year minimum. See § 28-105(1).

****269** Castillas was sentenced to 30 to 80 years. Subtracting the mandatory minimum sentence, 25 years, from the court's minimum sentence, 30 years, leaves 5 years for which Castillas could receive good time credit. Castillas must serve half of those 5 years, or 2 1/2 years, plus the mandatory minimum of 25 years before becoming eligible for parole. Accordingly, under the court's sentence, Castillas would be eligible for parole in 27 1/2 years, assuming no loss of good time.

Similarly, subtracting the mandatory minimum sentence of 25 years from the maximum sentence of 80 years leaves 55 years for which Castillas could receive good time credit. Castillas must serve half of those 55 years, or 27 1/2 years, plus the mandatory minimum of 25 years before becoming eligible for mandatory release. Accordingly, under the court's sentence, Castillas would reach his mandatory discharge date in 52 1/2 years, assuming no loss of good time.

In summary, based on the sentences pronounced by the court, Castillas will be eligible for parole in 27 1/2 years and eligible for mandatory discharge in 52 1/2 years, assuming no loss of good time. However, the court told Castillas that he would be eligible for parole in 25 years and subject to mandatory discharge in 40 years, assuming no loss of good time.

[20]  If there is a conflict between the court's sentence and its truth in sentencing advisement, the statements of ***192** the minimum and maximum limits control. Pursuant to § 29-2204(1), in imposing an indeterminate sentence upon an offender, the court shall:

(A) Fix the minimum and maximum limits of the sentence to be served within the limits provided by law for any class of felony other than a Class IV felony....

...

(b) Advise the offender on the record the time the offender will serve on his or her minimum term before attaining parole eligibility assuming that no good time for which the offender will be eligible is lost; and

(c) Advise the offender on the record the time the offender will serve on his or her maximum term before attaining mandatory release assuming that no good time for which the offender will be eligible is lost.

If any discrepancy exists between the statement of the minimum limit of the sentence and the statement of parole eligibility or between the statement of the maximum limit of the sentence and the statement of mandatory release, the statements of the minimum limit and the maximum limit shall control the calculation of the offender's term.

Castillas argues that because the court intended to give an aggregate sentence making him eligible for parole after 25 years, the intention of the sentencing court should prevail. Castillas asserts that because the sentences rendered in this case clearly did not comport with the intention of the court, the sentences are erroneous. He requests that this court remand the cause for resentencing in conformity with the trial court's articulated intentions.

Castillas' actual aggregate sentence is computed based on the court's statement of the minimum and maximum limits of 30 to 80 years. As computed above, Castillas will be eligible for parole in 27 1/2 years and subject to mandatory discharge in 52 1/2 years, assuming no loss of good time.

Castillas was sentenced after he was convicted; therefore, no prejudice based on the court's mathematical error has been shown. He was given valid sentences within the statutory range, even though the sentences were contrary to the court's ****270 *193** intentions. If any discrepancy exists between the statement of the minimum limit of the sentence and the statement of parole eligibility or between the statement of the maximum limit of the sentence and the statement of mandatory release, the statements of the minimum limit and maximum limit shall control the calculation of the offender's term. See § 29-2204(1).

CONCLUSION

For the reasons set forth, we find no merit to any of Castillo's assignments of error. We therefore affirm the judgments of conviction and the sentences imposed.

AFFIRMED.

CASSEL, J., not participating.

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Briefs and Other Related Documents ([Back to top](#))

- [2012 WL 3207220](#) (Appellate Brief) Supplemental Brief of Appellee (Jul. 17, 2012)  [Original Image of this Document \(PDF\)](#)
- [2012 WL 2369954](#) (Appellate Brief) Response In Opposition to Petition to Bypass (May 29, 2012)  [Original Image of this Document \(PDF\)](#)
- [2012 WL 5971132](#) (Appellate Brief) Reply Brief of Appellant (May 29, 2012)  [Original Image of this Document \(PDF\)](#)
- [2012 WL 5971131](#) (Appellate Brief) Brief of Appellant (Feb. 3, 2012)  [Original Image of this Document \(PDF\)](#)

Judges and Attorneys ([Back to top](#))

[Judges](#) | [Attorneys](#)

Judges

- **Cassel, Hon. William B.**

State of Nebraska Supreme Court
Lincoln, Nebraska 68509

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- **Connolly, Hon. William M.**

State of Nebraska Supreme Court
Lincoln, Nebraska 68509

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- **Heavican, Hon. Michael G.**

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Lincoln, Nebraska 68509

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- **McCormack, Hon. Michael**

State of Nebraska Supreme Court
Lincoln, Nebraska 68509

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• **Randall, Hon. Gary B.**

State of Nebraska District Court, 4th District
Omaha, Nebraska 68183

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• **Stephan, Hon. Kenneth C.**

State of Nebraska Supreme Court
Lincoln, Nebraska 68509

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• **Wright, Hon. John F.**

State of Nebraska Supreme Court
Lincoln, Nebraska 68509

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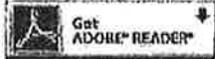
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From: Microsoft Outlook on behalf of Douglass, Jeannene
Sent: Friday, February 08, 2013 2:09 PM
To: Green, George
Cc: Willard, Linda; Poppert, Kyle
Subject:
Attachments:

Sender: Jeannene.Douglass@nebraska.gov

Subject:

Message-Id: <39951F55C62721429CED7747FC35B86C1356D6AC@STNEEX10MB02.stone.ne.gov>

To: George.Green@nebraska.gov

Cc: Linda.Willard@nebraska.gov

Cc: Kyle.Poppert@nebraska.gov

From: Douglass, Jeannene
Sent: Friday, February 08, 2013 2:09 PM
To: Green, George
Cc: Willard, Linda; Poppert, Kyle
Subject: David G. Castillas



David Castillas,

I have been in conversation with Linda Willard regarding the attached Supreme Court decision regarding the calculations of mandatory minimum sentences. While I agree with, and we are currently calculating the mandatory minimum terms in the manner expressed in this decision, we do not calculate the discharge date in the manner described in this decision.

Linda asked me if we would continue to calculate the sentence in the right way or go with what the Supreme Court says. I said, and she supported me, that we would do what is in the inmate's best interest, that being, continue calculating the sentences the way we have always done it. He will serve one-half of the maximum sentence for discharge, as long as the mandatory minimum term required by law is served. If we would calculate this sentence in the manner according to the Supreme Court's decision, Mr. Castillas would serve an additional 12 ½ years (40 years for discharge the way we calculate the sentence; 52 ½ years following the Supreme Court's model). She agreed with me, and suggested that I share this with you, Mr. Green, for your input and expertise in this matter. She also said the inmate, obviously, would not complain since he will serve less time by our calculations. (It would also serve the Director's desires, as well, to not increase our population any more than we must.)

I am available if you have any questions concerning this issue.

Thank you.

Jeannene Douglass
Records Manager II
Central Records Office
Nebraska Department of Corrections
PH: 402-479-5773
E-mail: jeannene.douglass@nebraska.gov

Douglass, Jeannene

From: Douglass, Jeannene
Sent: Friday, February 08, 2013 1:41 PM
To: Willard, Linda
Subject: RE: sentence calculation

Wouldn't the right thing to do be to continue the way we have always done it because it, too, was tried and tested. I don't know. it would be a real mess to have to go back in and recalculate everyone who has mandatory minimum sentences. What do you think??

*Jeannene Douglass
 Records Manager II
 Central Records Office
 Nebraska Department of Corrections
 PH: 402-479-5773
 E-mail: jeannene.douglass@nebraska.gov*

From: Willard, Linda
Sent: Friday, February 08, 2013 1:19 PM
To: Douglass, Jeannene
Subject: RE: sentence calculation

Note that the Supreme Court said the Dist. Court was wrong in how they calculated. If you are doing it differently than what the Supreme Court said is the "correct" way to calculate, do you decide to stay with the "right" way or go with what the Supreme Court said is the correct way?

From: Douglass, Jeannene
Sent: Friday, February 08, 2013 11:48 AM
To: Willard, Linda
Cc: Poppert, Kyle
Subject: RE: sentence calculation

The statements in this regarding the calculation of parole eligibility are correct. The manner presented regarding the discharge date calculation is not correct.

Parole eligibility has always been calculated by adding the mandatory minimum required by law to the date the sentence begins. If the minimum sentence is greater than the mandatory minimum term, one-half of the remainder is added to the mandatory minimum term to provide the total minimum sentence to be served. Any jail credit is credited to the minimum term.

However, Mr. Castillas will not serve 52 ½ years for discharge; the inmate must serve either one-half of the maximum term less jail credit OR the Mandatory Minimum term, whichever is longer, before being discharged from the sentence. The discharge date is not calculated in the same manner as the parole eligibility date.

In Mr. Castillas' case, he is serving a 30-year minimum sentence, 25 years of which are mandatory and not eligible for good time application. He will become eligible in 27 ½ years (25 years plus ½ of the remaining 5 years) less 379 days jail credit.

Mr. Castillas will discharge, at the very earliest, after serving one-half of the maximum 80-year sentence (40 years less 379 days jail credit). The 25-year mandatory minimum is less than the 40 years he will serve to be discharged.

*Jeannene Douglass
Records Manager II
Central Records Office
Nebraska Department of Corrections
PH: 402-479-5773
E-mail: jeannene.douglass@nebraska.gov*

From: Willard, Linda
Sent: Friday, February 08, 2013 9:41 AM
To: Poppert, Kyle; Douglass, Jeannene
Subject: sentence calculation

The attached case came down from the Nebr. Supreme Court today. Starting at the bottom of p. 188 they discuss sentence calculation. It is my understanding that this is how you currently do the calculation. Others in the office thought you might be doing it differently. So I am sending this to you so you can make sure you are doing the calculation in accordance with the Supreme Court's direction.

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STATE OF NEBRASKA, APPELLEE, V.
DAVID G. CASTILLAS, APPELLANT.

N.W.2d

Filed February 8, 2013. No. S-11-685.

1. **Rules of Evidence: Other Acts: Appeal and Error.** It is within the discretion of the trial court to determine relevancy and admissibility of evidence of other wrongs or acts under Neb. Evid. R. 403 and 404(2), Neb. Rev. Stat. §§ 27-403 (Reissue 2008) and 27-404(2) (Cum. Supp. 2012), and the trial court's decision will not be reversed absent an abuse of discretion.
2. **Criminal Law: Evidence: Appeal and Error.** In reviewing a sufficiency of the evidence claim, whether the evidence is direct, circumstantial, or a combination thereof, the standard is the same: An appellate court does not resolve conflicts in the evidence, pass on the credibility of witnesses, or reweigh the evidence; such matters are for the finder of fact. The relevant question for an appellate court is whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.
3. **Jury Instructions: Appeal and Error.** Whether jury instructions are correct is a question of law, which an appellate court resolves independently of the lower court's decision.
4. **Sentences: Appeal and Error.** An appellate court will not disturb a sentence imposed within the statutory limits absent an abuse of discretion by the trial court.
5. **Rules of Evidence: Appeal and Error.** Where the Nebraska Evidence Rules commit the evidentiary question at issue to the discretion of the trial court, the admissibility of evidence is reviewed for an abuse of discretion.
6. **Rules of Evidence.** The fact that evidence is prejudicial is not enough to require exclusion under Neb. Evid. R. 403, Neb. Rev. Stat. § 27-403 (Reissue 2008), because most, if not all, of the evidence a party offers is calculated to be prejudicial to the opposing party; it is only the evidence which has a tendency to suggest a decision on an improper basis that is unfairly prejudicial under § 27-403.
7. **Verdicts: Appeal and Error.** Only where evidence lacks sufficient probative value as a matter of law may an appellate court set aside a guilty verdict as unsupported by evidence beyond a reasonable doubt.
8. **Motions to Dismiss: Evidence: Waiver: Appeal and Error.** When a court overrules a defendant's motion to dismiss at the close of the State's case in chief and the defendant proceeds to trial and introduces evidence, the defendant waives the appellate right to challenge the trial court's overruling of the motion to dismiss.
9. **Sentences.** It is possible, in limited circumstances, to correct an inadvertent mispronouncement of a valid sentence.
10. _____. When a valid sentence has been put into execution, the trial court cannot modify, amend, or revise it in any way, either during or after the term or session of court at which the sentence was imposed.
11. _____. If there is a conflict between the court's sentence and its truth in sentencing advisement, the statements of the minimum and maximum limits control.

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Appeal from the District Court for Douglas County: GARY B. RANDALL, Judge. Affirmed.

Beau G. Finley, of Finley & Kahler Law Firm, P.C., L.L.O., for appellant.

Jon Bruning, Attorney General, and Nathan A. Liss for appellee.

HEAVICAN, C.J., WRIGHT, CONNOLLY, STEPHAN, McCORMACK, and MILLER-LERMAN, JJ.

WRIGHT, J.

NATURE OF CASE

David G. Castillas was convicted of two counts of discharging a firearm at a dwelling while in or near a motor vehicle, one count of second degree assault, and three counts of use of a deadly weapon to commit a felony. He was sentenced to 5 to 20 years in prison on each conviction of discharging a firearm, 5 to 10 years in prison on the conviction of second degree assault, and 5 to 10 years in prison on each conviction of use of a weapon to commit a felony. All sentences were to be served consecutively. Castillas appeals his convictions and sentences.

SCOPE OF REVIEW

[1] It is within the discretion of the trial court to determine relevancy and admissibility of evidence of other wrongs or acts under Neb. Evid. R. 403 and 404(2), Neb. Rev. Stat. §§ 27-403 (Reissue 2008) and 27-404(2) (Cum. Supp. 2012), and the trial court's decision will not be reversed absent an abuse of discretion. *State v. Fremont*, 284 Neb. 179, 817 N.W.2d 277 (2012).

[2] In reviewing a sufficiency of the evidence claim, whether the evidence is direct, circumstantial, or a combination thereof, the standard is the same: An appellate court does not resolve conflicts in the evidence, pass on the credibility of witnesses, or reweigh the evidence; such matters are for the finder of fact. The relevant question for an appellate court is whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential

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elements of the crime beyond a reasonable doubt. *State v. Howell*, 284 Neb. 559, 822 N.W.2d 391 (2012).

[3] Whether jury instructions are correct is a question of law, which an appellate court resolves independently of the lower court's decision. *State v. Smith*, 284 Neb. 636, 822 N.W.2d 401 (2012).

[4] An appellate court will not disturb a sentence imposed within the statutory limits absent an abuse of discretion by the trial court. *State v. Kass*, 281 Neb. 892, 799 N.W.2d 680 (2011).

FACTS

BACKGROUND

On June 5, 2010, a driveby shooting occurred at the home of Donald Jones in Omaha, Nebraska. On June 11, another driveby shooting occurred at the home of William Harris, who lived with his mother at the home, also located in Omaha. During the second shooting, Harris' mother sustained a bullet wound to her left arm.

Castillas, Travis Davis, Tiffany Fitzgerald, and Brandy Beckwith were charged in connection with the shootings. On April 26, 2011, the State was granted leave to file additional charges against Castillo. It filed an amended information charging Castillo with two counts of discharging a firearm at a dwelling while in or near a motor vehicle, one count of second degree assault, and three counts of use of a deadly weapon to commit a felony.

Castillas filed a motion in limine to exclude evidence of or testimony regarding an incident following the shootings, during which Castillo allegedly possessed a firearm and brandished it at Donald Betts, a witness for the State. Castillo also moved to exclude any photographs of him handling a firearm. Castillo alleged that evidence on this issue would not be reliable or relevant, that such evidence would be excludable under § 27-404(2), and that any probative value under § 27-403 would be outweighed by unfair prejudice. He also claimed the evidence would be improper propensity evidence prohibited under § 27-404. Both motions were overruled.

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JURY TRIAL

Castillas' trial commenced on May 4, 2011, in Douglas County District Court. The State called Davis, Fitzgerald, and Beckwith. All three testified that on June 5, 2010, they drove with Castillas to Jones' house. They testified that Castillas and Davis shot at the residence multiple times with firearms. They also testified that on the night of the second shooting, all four individuals, along with a person named "Lars," drove to Harris' house and that Castillas and Davis each fired at the residence.

EVENTS OF JUNE 4 AND 5, 2010

On the evening of June 4, 2010, Castillas and Davis were "partying" with Fitzgerald and Beckwith. The four of them were taking photographs of themselves holding guns. to "look cool." One of the guns was a .45-caliber pistol that belonged to Davis, and the other was a .22-caliber rifle that belonged to Fitzgerald's father. Fitzgerald recalled that the photographs marked as exhibits 93, 94, 95, and 97 were taken that specific night, because she recognized the black dresses she and Beckwith were wearing.

Davis testified that Castillas and Fitzgerald argued about Betts on the night of the first shooting. Betts had been dating Fitzgerald, who was Castillas' girlfriend, and Castillas wanted revenge. Betts was the son of Jones, and he occasionally lived with Jones. Davis had never met Betts, but he became upset with Betts due to rumors that Betts had fired a weapon at Davis' car.

Sometime after midnight on June 5, 2010, Castillas accused Fitzgerald of continuing to talk to Betts. Castillas took the rifle, Davis took his pistol, and the four got into Beckwith's car. Beckwith drove, with Davis in the front passenger seat, Fitzgerald in the rear passenger seat, and Castillas in the rear driver's-side seat. Castillas gave Beckwith directions to Jones' house. As they drove past the house, Castillas and Davis both fired at it. Davis sat on "the [front passenger] window sill" and fired his pistol across the roof of the car, and Castillas fired the rifle out the back window. Davis testified he fired at least five

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or six shots and heard Castillas fire at least two or three shots. The group then returned to Fitzgerald's house.

Jones testified that on June 4, 2010, he lived in Omaha with his wife and three of his children. Betts occasionally resided there as well. At approximately 1:30 a.m. on June 5, while Jones and his wife were in their bedroom, a bullet was fired through the bedroom wall. The couple hid in the closet as several more shots were fired. When the shooting stopped, Jones called the 911 emergency dispatch service. He testified there were no bullet holes in his house prior to this shooting. Betts was not at the house when the incident occurred.

A crime scene technician with the Omaha Police Department crime laboratory testified that she collected shell casings lying in front of Jones' house. She found five shell casings in the street and located 23 bullet holes in the house, which appeared to have been caused by bullets of two different sizes. Several bullets from the house were placed in an envelope along with the five shell casings found in the street.

EVENTS OF JUNE 10 AND 11, 2010

On June 10, 2010, Castillas, Davis, Fitzgerald, Beckwith, and "Lars" were partying at Fitzgerald's house. Castillas mentioned that Betts "hangs out" at Harris' house, and Castillas and Davis talked about "shooting that house up." The five went in Beckwith's car. Davis was in front, and Castillas was in the rear driver's-side seat. Castillas had the same .22-caliber rifle, and Davis had a new 9-mm weapon that he had just obtained. Castillas and Davis fired at Harris' house. After the shooting, they returned to Fitzgerald's house.

Harris' mother lived in Omaha with Harris and her other son. She was asleep during the early morning hours of June 11, 2010, and was awakened when a bullet struck and passed through her left arm. She fell on the floor as several more shots were fired at her house.

OTHER TRIAL EVIDENCE

On June 11, 2010, several hours after the second shooting, Betts went to Fitzgerald's house to talk to her about the shootings. While Betts was talking to Fitzgerald outside, Castillas

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and Davis came outside. Castillas went back inside, and Betts saw him in an upstairs window with a gun that looked like the .22-caliber rifle used in the shootings.

Det. David Schneider attempted to speak with Fitzgerald following the shootings. Fitzgerald and Beckwith eventually went to an Omaha police station and spoke with Detective Schneider. Initially, they were untruthful, but they later admitted that they were involved in the driveby shootings and provided a detailed account. A detective went to Fitzgerald's house and seized the .22-caliber rifle, two empty magazines, and another magazine that contained 11 rounds of .22-caliber ammunition.

Davis was arrested at his residence, and police seized his .45-caliber pistol. He initially denied involvement in the shootings but subsequently provided a detailed account that matched the accounts given by Fitzgerald and Beckwith. Detective Schneider learned that Beckwith had taken Castillas to meet a family member near Crete, Nebraska, and that Castillas had gone to Texas. Castillas was apprehended in Corpus Christi, Texas, and transported back to Nebraska.

The .22-caliber rifle seized from Fitzgerald's house and the .45-caliber pistol from Davis' house were sent to the Omaha Police Department crime laboratory for ballistic comparison. A senior technician for the crime laboratory analyzed shell casings from both shootings. She testified that the five shell casings from the first driveby shooting were from a .45-caliber pistol and that two of the bullets recovered from the first shooting had characteristics that were consistent with the .22-caliber rifle. Regarding the second driveby shooting, the technician determined that 11 shell casings were from the .22-caliber rifle, 5 were from a 9-mm weapon, and all of the bullets recovered that were suitable for comparison were consistent with a 9-mm weapon.

After the evidence was presented, the State rested. Castillas moved to dismiss all charges against him for lack of evidence. The motion was overruled, and Castillas called Fitzgerald to testify.

Following the conclusion of the testimony, the court held a jury instruction conference. Castillas objected to instruction No. 11, which dealt with voluntary flight. His objection was

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overruled, and the court instructed the jury. After submission of the case, the jury found Castillas guilty of all six counts. Each of Castillas' three convictions for use of a deadly weapon to commit a felony required a mandatory minimum sentence of 5 years. See Neb. Rev. Stat. §§ 28-1205(1)(c) (Cum. Supp. 2012) and 28-105(1) (Reissue 2008). Both of his convictions for discharging a firearm at a dwelling while in or near a vehicle also required mandatory minimum terms of 5 years each. See Neb. Rev. Stat. § 28-1212.04 (Supp. 2009) and § 28-105(1). His conviction for second degree assault had no mandatory minimum sentence. See Neb. Rev. Stat. § 28-309 (Supp. 2009) and § 28-105(1).

CASTILLAS' SENTENCES

A sentencing hearing was held on July 28, 2011. The court stated it intended that for purposes of parole eligibility, Castillas should serve 25 years in the Nebraska Department of Correctional Services after credit for good time. It initially sentenced Castillas to aggregate consecutive prison sentences of 50 to 80 years.

After the court's first sentence pronouncement, the court inquired whether counsel agreed that Castillas would be eligible for parole consideration in 25 years. The prosecutor opined that the court's understanding was incorrect. Counsel disagreed on the calculation of parole eligibility. In response to defense counsel's statement that Castillas might not be eligible for parole for 35 years, the court stated that was not the court's intention.

Before anyone left the courtroom, the court pronounced the following sentences, which in the aggregate amounted to 30 to 80 years:

- Count I, discharging a firearm at a dwelling while in or near a motor vehicle, 5 to 20 years.
- Count II, use of a deadly weapon to commit a felony, 5 to 10 years.
- Count III, second degree assault, 5 to 10 years.
- Count IV, use of a deadly weapon to commit a felony, 5 to 10 years.
- Count V, discharging a firearm at a dwelling while in or near a motor vehicle, 5 to 20 years.

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- Count VI, use of a deadly weapon to commit a felony, 5 to 10 years.

The court's "truth in sentencing" advisement informed Castillas: "That will be a total of 30 to 80 years, meaning you have to serve 25 years to be released on parole. And after 40 years, if you lose no good time, you'll be released." The court's written order directed that the sentences be served consecutively and gave Castillas credit for 379 days served.

ASSIGNMENTS OF ERROR

Castillas alleges, summarized and restated, that (1) the court erred in allowing testimony at trial concerning whether he possessed firearms after the second shooting, (2) the court erred in admitting photographs of Castillas possessing firearms, (3) the evidence at trial was insufficient, (4) the court erred in overruling Castillas' motion to dismiss at the end of the State's case, (5) the court erred in giving jury instruction No. 11 with regard to voluntary flight, and (6) the court erred in ordering a sentence that was substantially different from its intended sentence.

ANALYSIS

EVIDENCE RELATED TO POSSESSION OF .22-CALIBER
RIFLE AFTER SECOND SHOOTING

The State introduced evidence that Betts went to Fitzgerald's home several hours after the second shooting. Betts saw Castillas holding a weapon that looked like the rifle Castillas was alleged to have used in both shootings. Before trial, Castillas moved to prohibit the State from presenting such testimony. The court overruled the motion.

Castillas alleges that during the trial, he was granted a continuing objection to this evidence and that, therefore, his alleged error concerning the admission of the evidence has been preserved for review on appeal. Castillas claims that admission of the evidence violated §§ 27-403 and 27-404.

Section 27-404(2) provides:

Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show that he or she acted in conformity therewith. It may,

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however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

Castillas asserts that the State offered no proper purpose for this evidence and that the court should have held a rule 404 hearing.

The State argues that Castillo waived any objection to this evidence by his failure to object during Betts' testimony. Although Castillo moved to exclude the evidence before trial, he did not object or renew his motion during Betts' testimony that he went to Fitzgerald's house after the second shooting and saw Castillo with a gun that looked like the .22-caliber rifle Castillo allegedly used in the shootings. The State claims that Castillo did not raise the necessary objection, because although he had received a continuing objection during the direct examinations of Davis, Fitzgerald, and Beckwith, he did not object or renew his objection during Betts' testimony.

Neb. Rev. Stat. § 25-1141 (Reissue 2008) provides:

Where an objection has once been made to the admission of testimony and overruled by the court it shall be unnecessary to repeat the same objection to further testimony of the same nature by the same witness in order to save the error, if any, in the ruling of the court whereby such testimony was received.

The State claims § 25-1141 does not apply to testimony given by a different witness when no objection is made to that witness' testimony. We agree. Castillo failed to object to Betts' testimony and has therefore waived his objection to such testimony.

PHOTOGRAPHS OF CASTILLAS, DAVIS,
FITZGERALD, AND BECKWITH

During the trial, the State introduced four photographs. Three of the photographs show Castillo with a rifle that resembles the .22-caliber rifle allegedly used in the shootings; the fourth does not depict a firearm. Exhibit 93 is a photograph of Castillo holding a .22-caliber rifle and posing alongside Fitzgerald, who is holding Davis' .45-caliber pistol.

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Exhibit 94 is a photograph of Castillas posing by himself with a .22-caliber rifle. Exhibit 95 is a photograph of Castillas holding the rifle and posing alongside Beckwith, who is holding Davis' .45-caliber pistol. Castillas objected to these photographs, claiming they were irrelevant, were unfairly prejudicial, and violated § 27-404(2). The court overruled these objections.

Castillas claims the photographs were overly prejudicial. In support of his argument, Castillas attacks the credibility of Fitzgerald, who testified that the photographs were taken the evening of the first shooting. He asks this court to disregard such testimony, because Fitzgerald lied repeatedly to the police in order to get out of trouble and wrote false accounts of the shootings months after they occurred and because there was no other independent evidence offered to establish that the photographs were taken on the date claimed by Fitzgerald.

[5] Where the Nebraska Evidence Rules commit the evidentiary question at issue to the discretion of the trial court, the admissibility of evidence is reviewed for an abuse of discretion. *State v. Nolan*, 283 Neb. 50, 807 N.W.2d 520 (2012). Fitzgerald's credibility does not control the admission of the photographs. On appeal, we do not examine the credibility of the witnesses. Fitzgerald's testimony established that the photographs were taken near the time of the first shooting. Both Davis and Beckwith acknowledged the photographs were taken, and Beckwith acknowledged they were taken on the night of either the first or second shooting.

[6] Whether the evidence was unfairly prejudicial was a decision for the trial court, whose decision we will not reverse unless there is an abuse of discretion. See *id.* The fact that evidence is prejudicial is not enough to require exclusion under § 27-403, because most, if not all, of the evidence a party offers is calculated to be prejudicial to the opposing party; it is only the evidence which has a tendency to suggest a decision on an improper basis that is unfairly prejudicial under § 27-403. *State v. Williams*, 282 Neb. 182, 802 N.W.2d 421 (2011). We conclude Castillas has not established that the admission of the photographs was unfairly prejudicial. The court did not abuse its discretion in admitting these photographs.

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Castillas' argument that the photographs should have been excluded under § 27-404(2) is also without merit. The evidence established that the photographs were taken on or near the night of the first shooting. They were admissible as intrinsic evidence because they corroborated testimony of the witnesses that Castillo had access to and was in possession of a .22-caliber rifle at the time of the shootings.

SUFFICIENCY OF EVIDENCE

[7] In reviewing a sufficiency of the evidence claim, we do not resolve conflicts in the evidence, pass on the credibility of witnesses, or reweigh the evidence; such matters are for the finder of fact. See *State v. Howell*, 284 Neb. 559, 822 N.W.2d 391 (2012). The relevant question is whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. See *id.* Only where evidence lacks sufficient probative value as a matter of law may an appellate court set aside a guilty verdict as unsupported by evidence beyond a reasonable doubt. *Id.*

Castillas claims that the evidence was insufficient to find him guilty of any of the six counts alleged in the amended information. He claims the State failed to provide even a viable narrative of why the shootings occurred. We disagree. The evidence established that Castillo had a desire to injure Betts.

Castillas asserts that Davis had a stronger motive to commit the crimes, because Davis may have believed that Betts and Harris fired shots at Davis' car. The fact that Davis might have had a motive to injure Betts and Harris supports the evidence that both Castillo and Davis participated in the shootings.

Castillas also argues that the State's dependence upon Davis, Fitzgerald, and Beckwith to support the accusation that Castillo shot at both houses is insufficient, because all three admitted to lying to police when questioned about these incidents.

These arguments have no merit. The credibility of Davis, Fitzgerald, and Beckwith is not part of our review for sufficiency of the evidence. We do not pass on the credibility of witnesses or reweigh the evidence. Viewing the evidence in the light most favorable to the State, a rational trier of fact

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could have found beyond a reasonable doubt that Castillas committed the crimes charged. Castillas' argument that no rational trier of fact would have found him guilty of these six offenses because the State's witnesses were not credible is without merit.

MOTION TO DISMISS

Castillas claims the court erred in overruling his motion to dismiss, which was made after the State presented its case in chief. After the State rested, Castillas started to make a motion to dismiss. The court stated that Castillas could defer the motion, which he did. Castillas then called Davis to the stand. Later, while the jury was on a lunch break, Castillas moved to dismiss. He claimed the State had failed to make a prima facie case against him on any of the charges. The court overruled the motion. Castillas then called his final witness, Fitzgerald.

[8] When a court overrules a defendant's motion to dismiss at the close of the State's case in chief and the defendant proceeds to trial and introduces evidence, the defendant waives the appellate right to challenge the trial court's overruling of the motion to dismiss. *State v. Dixon*, 282 Neb. 274, 802 N.W.2d 866 (2011). Castillas waived his argument by calling Fitzgerald as a witness after the State had rested and after his motion to dismiss was overruled. His assignment of error is without merit.

JURY INSTRUCTION ON FLIGHT

Before the case was submitted to the jury, the court gave instruction No. 11, which provided:

The voluntary flight of [Castillas] immediately or soon after the occurrence of a crime, with which [Castillas] has been charged, is a circumstance not sufficient of itself to establish guilt, but a circumstance nevertheless which you may consider in connection with all the other evidence in this case to aid you in determining the question of the guilt or innocence of [Castillas].

Whether jury instructions are correct is a question of law, which an appellate court resolves independently of the lower

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court's decision. *State v. Smith*, 284 Neb. 636, 822 N.W.2d 401 (2012). Castillas claims he was prejudiced by instruction No. 11 because the instruction forced the jury to conclude that his departure from Omaha was a flight. He argues that the jury should have been instructed in such a way that they could differentiate between the term "flight" and mere departure. He alleges that there was no way for the jury to discern the difference between flight and departure and that without a definition of flight, the jury would not be able to consider the distinction between the two. He claims there is little evidence in the record to suggest that he left Omaha to avoid apprehension or detection.

Castillas' arguments have no merit. In *State v. Lincoln*, 183 Neb. 770, 772, 164 N.W.2d 470, 472 (1969), this court upheld the giving of a flight instruction that stated:

"You are instructed that the voluntary flight of a person immediately or soon after the occurrence of a crime, with which the person so fleeing has been charged, is a circumstance, not sufficient of itself to establish guilt, but a circumstance nevertheless which the Jury may consider in connection with all the other evidence in the case to aid you in determining the question of the guilt or innocence of such person."

This instruction is substantively the same as the instruction given in the case at bar.

Beckwith testified that she took Castillas to Crete "days to a week" after the second shooting. She responded "[y]es" when asked whether Castillas had requested to be taken to Crete only after Detective Schneider was "kind of poking around." Beckwith was then asked, "Did [Castillas] tell you why he wanted to be taken to Crete, Nebraska?" Beckwith responded that Castillas said that "if they were looking for anybody they were looking for him." There was sufficient evidence for the jury to infer flight, see *State v. Pullens*, 281 Neb. 828, 800 N.W.2d 202 (2011), and the court did not err in giving instruction No. 11 to the jury.

Additionally, Castillas did not submit a proposed jury instruction or request a more specific instruction containing a definition of flight. If he desired a more precise jury instruction,

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Castillas should have requested one at the time the instructions were being considered. See *State v. Lewis*, 241 Neb. 334, 488 N.W.2d 518 (1992). His failure to offer a more specific instruction precludes his raising this objection on appeal. See *State v. Sanders*, 269 Neb. 895, 697 N.W.2d 657 (2005).

SENTENCING

Castillas claims that the court erred by imposing sentences which failed to achieve the court's expressed intent of making Castillas eligible for parole in 25 years. An appellate court will not disturb a sentence imposed within the statutory limits absent an abuse of discretion by the trial court. *State v. Kass*, 281 Neb. 892, 799 N.W.2d 680 (2011).

At the sentencing hearing, the court initially pronounced consecutive sentences resulting in an aggregate sentence of 50 to 80 years. The court stated: "It means that after 25 years, you'll be considered eligible for consideration — is that right?" The prosecutor and defense counsel then disagreed about the calculation of parole eligibility. In response to defense counsel's statement that the sentence pronounced might make Castillas ineligible for parole for 35 years, the court stated that was not the court's intention. The court then stated:

My intention is that with the mandatory minimums, . . . Castillas should serve 25 years in the Nebraska Department of Correctional Services after credit for good time. So if the numbers [minimum portion of each sentence] would add up to 30, that would give it a 25-year mandatory minimum — 25-year minimum, I'm sorry. After mandatory of 20, he would have 10 years for which he would get good time credit, which would be divided in half for the 25. So we will start over.

The court sentenced Castillas to an aggregate prison sentence of 30 to 80 years: 5 to 20 years on counts I and V, for shooting at a dwelling from a vehicle, and 5 to 10 years on counts II, IV, and VI, for use of a weapon to commit a felony, and count III, for second degree assault. All sentences were to be served consecutively.

For its truth in sentencing advisement, the court informed Castillas that he would be sentenced to a total of 30 to 80

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years, that he would have to serve 25 years to be released on parole, and that after 40 years, if he lost no good time, he would be released.

The statutory sentencing requirements for the charges are as follows:

- Counts I and V: discharging a firearm at a dwelling while in or near a vehicle, a violation of § 28-1212.04, Class IC felony, punishable by a mandatory minimum of 5 years and a maximum of 50 years. § 28-105(1).
- Counts II, IV, and VI: use of a deadly weapon, a firearm, to commit a felony, a violation of § 28-1205(1)(c), Class IC felony, punishable by a mandatory minimum of 5 years and a maximum of 50 years. § 28-105(1).
- Count III: second degree assault, a violation of § 28-309, Class III felony, punishable by a minimum of 1 year and a maximum of 20 years. § 28-105(1).

[9,10] It is possible, in limited circumstances, to correct an inadvertent mispronouncement of a valid sentence. *State v. Clark*, 278 Neb. 557, 772 N.W.2d 559 (2009). Hence, it was permissible for the court to resentence Castillas to correct the sentence to match the court's intention. The court stated its intention to structure an aggregate sentence that would result in Castillas' being eligible for parole in 25 years. In imposing a sentence, it is appropriate for a sentencing court to consider how good time credit affects a sentence, that is, when a defendant will be eligible for parole and mandatory release. See *State v. Cadwallader*, 230 Neb. 881, 434 N.W.2d 506 (1989). The sentences on all six convictions were within the statutory limits. And when a valid sentence has been put into execution, the trial court cannot modify, amend, or revise it in any way, either during or after the term or session of court at which the sentence was imposed. *State v. Clark, supra*.

Though the sentences pronounced were valid, they did not match the court's intention. The court miscalculated when Castillas would be eligible for parole and for mandatory discharge.

Parole eligibility is governed by Neb. Rev. Stat. § 83-1,110 (Reissue 2008), which provides in relevant part: "(1) Every committed offender shall be eligible for parole when the

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offender has served one-half the minimum term of his or her sentence as provided in [§] 83-1,107 No such reduction of sentence shall be applied to any sentence imposing a mandatory minimum term." Pursuant to Neb. Rev. Stat. § 83-1,107(2)(a) and (3) (Cum. Supp. 2012), the term of a committed offender is reduced "by six months for each year of the offender's term and pro rata for any part thereof which is less than a year," but "reductions of terms . . . may be forfeited, withheld, and restored" by correctional facility officials. Section 83-1,110 makes clear that these good time reductions do not apply to mandatory minimum sentences.

In *Johnson v. Kenney*, 265 Neb. 47, 654 N.W.2d 191 (2002), we considered whether good time credit should be applied to the maximum portion of a sentence before the mandatory minimum sentence had been served. We held that it could not, because good time credit applies only after the mandatory minimum has been served. One of the purposes behind § 83-1,107, the good time credit statute, was to ensure that no one would reach mandatory discharge before reaching parole eligibility. We stated in *Johnson v. Kenney, supra*, that it would defeat the legislative intent if a defendant reached mandatory discharge before being eligible for parole, because the minimum portion of the sentence would have no meaning.

In calculating parole eligibility in *State v. Kinser*, 283 Neb. 560, 811 N.W.2d 227 (2012), this court held that a defendant must serve the mandatory minimum plus one-half of the remaining minimum sentence before becoming eligible for parole. A jury found William D. Kinser, Jr., guilty of felony flight to avoid arrest. After finding that he had five previous felony convictions, the district court concluded that Kinser was a habitual criminal and sentenced him to a term of not less than 18 nor more than 30 years' imprisonment. Kinser argued that the sentencing order must be reversed because the court intended for him to be eligible for parole after 10 years, whereas under the sentence imposed, he would not be eligible for parole for 14 years.

We held that with the minimum sentence of 18 years, Kinser was required to serve a minimum of 10 years plus one-half of

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the remaining 8 years before he would be eligible for parole. During sentencing, the court had stated:

"[Kinser] will be sentenced . . . [o]n Count 1 [fleeing to avoid arrest], which is the felony, [to] not less than 18 years and not more than 30 years. The minimum will include the mandatory minimum of 10 years with a two-year revocation of his license. Those sentences will be served concurrent. I give him credit for 190 days that he has served."

Id. at 568-69, 811 N.W.2d at 233.

On appeal, Kinser claimed that the district court erred in sentencing him as a habitual criminal and in imposing an erroneous sentence. We found that the sentencing court did not clearly state that Kinser would be eligible for parole after serving 10 years, but that even if it had, the question would be resolved by Neb. Rev. Stat. § 29-2204(1) (Reissue 2008). Any discrepancy between the minimum sentence of 18 years for Kinser's flight to avoid arrest conviction and the statements of the sentencing court regarding parole eligibility would be controlled by the court's statements with regard to the minimum sentence. Pursuant to our holding in *Johnson v. Kenney*, 265 Neb. 47, 654 N.W.2d 191 (2002), good time credit would not reduce the 10-year mandatory minimum portion of Kinser's sentence for flight to avoid arrest. Thus, assuming no loss of good time credit, Kinser was required to serve the 10-year mandatory minimum plus 4 of the remaining 8 years of the minimum sentence, less credit for time served, before becoming eligible for parole.

Logically, a defendant must serve the mandatory minimum portion of a sentence before earning good time credit toward the maximum portion of the sentence. *Johnson v. Kenney, supra*, indicates that a defendant receives no good time credit until after serving any mandatory minimum. Thus, a defendant would be unable to earn good time credit against either the minimum or maximum sentence until the defendant had served the mandatory minimum sentence. As noted in *State v. Kinser, supra*, the parole eligibility date is determined by subtracting the mandatory minimum sentence from the court's minimum sentence, halving the difference, and adding that difference to

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the mandatory minimum. Similarly, the mandatory discharge date is computed by subtracting the mandatory minimum sentence from the maximum sentence, halving the difference, and adding that difference to the mandatory minimum. NO

Mandatory minimum sentences cannot be served concurrently. A defendant convicted of multiple counts each carrying a mandatory minimum sentence must serve the sentence on each count consecutively.

Accordingly, the court was required to sentence Castillas to consecutive terms for each conviction carrying a mandatory minimum. The court incorrectly computed Castillas' parole eligibility date because it mistakenly used 20 years as the mandatory minimum sentence instead of the required 25 years. Five of the convictions were Class IC felonies, each carrying a mandatory 5-year minimum. See § 28-105(1). ?

Castillas was sentenced to 30 to 80 years. Subtracting the mandatory minimum sentence, 25 years, from the court's minimum sentence, 30 years, leaves 5 years for which Castillas could receive good time credit. Castillas must serve half of those 5 years, or 2½ years, plus the mandatory minimum of 25 years before becoming eligible for parole. Accordingly, under the court's sentence, Castillas would be eligible for parole in 27½ years, assuming no loss of good time.

Similarly, subtracting the mandatory minimum sentence of 25 years from the maximum sentence of 80 years leaves 55 years for which Castillas could receive good time credit. Castillas must serve half of those 55 years, or 27½ years, plus the mandatory minimum of 25 years before becoming eligible for mandatory release. Accordingly, under the court's sentence, Castillas would reach his mandatory discharge date in 52½ years, assuming no loss of good time. NO

In summary, based on the sentences pronounced by the court, Castillas will be eligible for parole in 27½ years and eligible for mandatory discharge in 52½ years, assuming no loss of good time. However, the court told Castillas that he would be eligible for parole in 25 years and subject to mandatory discharge in 40 years, assuming no loss of good time.

[11] If there is a conflict between the court's sentence and its truth in sentencing advisement, the statements of

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the minimum and maximum limits control. Pursuant to § 29-2204(1), in imposing an indeterminate sentence upon an offender, the court shall:

(A) Fix the minimum and maximum limits of the sentence to be served within the limits provided by law for any class of felony other than a Class IV felony

(b) Advise the offender on the record the time the offender will serve on his or her minimum term before attaining parole eligibility assuming that no good time for which the offender will be eligible is lost; and

(c) Advise the offender on the record the time the offender will serve on his or her maximum term before attaining mandatory release assuming that no good time for which the offender will be eligible is lost.

If any discrepancy exists between the statement of the minimum limit of the sentence and the statement of parole eligibility or between the statement of the maximum limit of the sentence and the statement of mandatory release, the statements of the minimum limit and the maximum limit shall control the calculation of the offender's term.

Castillas argues that because the court intended to give an aggregate sentence making him eligible for parole after 25 years, the intention of the sentencing court should prevail. Castillas asserts that because the sentences rendered in this case clearly did not comport with the intention of the court, the sentences are erroneous. He requests that this court remand the cause for resentencing in conformity with the trial court's articulated intentions.

Castillas' actual aggregate sentence is computed based on the court's statement of the minimum and maximum limits of 30 to 80 years. As computed above, Castillas will be eligible for parole in 27½ years and subject to mandatory discharge in 52½ years, assuming no loss of good time.

Castillas was sentenced after he was convicted; therefore, no prejudice based on the court's mathematical error has been shown. He was given valid sentences within the statutory range, even though the sentences were contrary to the court's

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intentions. If any discrepancy exists between the statement of the minimum limit of the sentence and the statement of parole eligibility or between the statement of the maximum limit of the sentence and the statement of mandatory release, the statements of the minimum limit and maximum limit shall control the calculation of the offender's term. See § 29-2204(1).

CONCLUSION

For the reasons set forth, we find no merit to any of Castillas' assignments of error. We therefore affirm the judgments of conviction and the sentences imposed.

AFFIRMED.

CASSEL, J., not participating.

STATE OF NEBRASKA, APPELLEE, v.
RANDALL J. BROMM, APPELLANT.

— N.W.2d —

Filed February 8, 2013. No. S-11-718.

1. **Constitutional Law: Search and Seizure: Motions to Suppress: Appeal and Error.** In reviewing a trial court's ruling on a motion to suppress based on a claimed violation of the Fourth Amendment, an appellate court applies a two-part standard of review. Regarding historical facts, an appellate court reviews the trial court's findings for clear error. But whether those facts trigger or violate Fourth Amendment protections is a question of law that an appellate court reviews independently of the trial court's determination.
2. **Criminal Law: Courts: Appeal and Error.** In an appeal of a criminal case from the county court, the district court acts as an intermediate court of appeal.
3. **Motions to Suppress: Trial: Pretrial Procedure: Appeal and Error.** When a motion to suppress is denied pretrial and again during trial on renewed objection, an appellate court considers all the evidence, both from trial and from the hearings on the motion to suppress.
4. **Evidence: Proof: Words and Phrases.** Direct evidence is that evidence which proves the fact in dispute directly without inference or presumption.
5. **Evidence.** Direct evidence encompasses not just testimonial evidence, but the admission of documents and other tangible items.
6. **Search and Seizure: Police Officers and Sheriffs.** The purpose of the exclusionary rule is to deter police misconduct.
7. **Constitutional Law: Search and Seizure: Police Officers and Sheriffs: Negligence.** The exclusionary rule should not apply when police mistakes are the result of negligence rather than systemic error or reckless disregard of constitutional requirements.

From: Microsoft Outlook on behalf of Douglass, Jeannene
Sent: Tuesday, February 19, 2013 8:39 AM
To: Baum, Mickie
Subject: FW: Castillas
Attachments: FW: Castillas

Sender: Jeannene.Douglass@nebraska.gov

Subject: FW: Castillas #74035

Message-Id: <39951F55C62721429CED7747FC35B86C1356E496@STNEEX10MB02.stone.ne.gov>

To: Mickle.Baum@nebraska.gov

From: Douglass, Jeannene
Sent: Tuesday, February 19, 2013 8:39 AM
To: Baum, Mickie
Subject: FW: Castillas

Thought you might get a kick out of this e-mail from KP. Specially the last sentence~!!!

*Jeannene Douglass
Records Manager II
Central Records Office
Nebraska Department of Corrections
PH: 402-479-5773
E-mail: jeannene.douglass@nebraska.gov*

From: Poppert, Kyle
Sent: Sunday, February 17, 2013 11:24 AM
To: Douglass, Jeannene; Shurter, Ginger
Subject: Castillas #74035

Jeannene, Ginger

Regarding the Castillas #74035 case you have been in discussion with Linda Willard.

I need you to work with Ginger and draft a response to George Green for my review on Friday.

I would like you to explain our current practice, the expected practice under the ruling of the Supreme Court and why you believe our current practice is the proper course.

NDCS and the court are relying on the same case history to arrive at our decisions. I think the court is misinterpreting the previous cases. Anyway we need to be able to explain this to George.

I do want to caution folks, our current efforts to reduce our inmate population has nothing to do with how we apply good time laws. The law is the law and we will act accordingly.

Thanks,

Kyle

Kyle J. Poppert
Classification and Inmate Records Administrator
Nebraska Department of Correctional Services
Programs & Community Services Division
Phone: (402) 479-5750
Cellular:
Fax: (402) 742-2349
Kyle.Poppert@nebraska.gov

Change is inevitable, growth is optional.

E

Freudenberg, John

From: Freudenberg, John
Sent: Tuesday, February 19, 2013 2:09 PM
To: Blum, Kathy
Subject: Case citation

Follow Up Flag: Follow up
Flag Status: Flagged

The case citation to which I was referring to earlier is *State v. Castillas*, 285 Neb. 174 (2013).

John R. Freudenberg
Criminal Bureau Chief
Nebraska Attorney General's Office
Lincoln, NE 68508
(402) 471-3833

From: Microsoft Outlook on behalf of Douglass, Jeannene
Sent: Monday, March 11, 2013 2:28 PM
To: Poppert, Kyle
Cc: Green, George
Subject: Mandatory Minimum sentence calculation procedure
Attachments: Mandatory Minimum sentence calculation procedure

Sender: Jeannene.Douglass@nebraska.gov

Subject: Mandatory Minimum sentence calculation procedure

Message-Id: <39951F55C62721429CED7747FC35B86C1357D4C0@STNEEX10MB02.stone.ne.gov>

To: Kyle.Poppert@nebraska.gov

Cc: George.Green@nebraska.gov

From: Douglass, Jeannene
Sent: Monday, March 11, 2013 2:28 PM
To: Poppert, Kyle
Cc: Green, George
Subject: Mandatory Minimum sentence calculation procedure



mandatory minimum
memo describ...

You had asked me for something in writing explaining how we calculate mandatory minimum sentences. I am attaching a memorandum dated 9-18-1996 from Ron Riethmuller, then Records Administrator, regarding our procedures in calculating mandatory minimum sentences. This is the procedure we have been using and has been supported by the Attorney General's Office as well as court opinions.

I hope this information is useful to you in your quest.

Jeannene Douglass
Records Manager II
Central Records Office
Nebraska Department of Corrections
PH: 402-479-5773
E-mail: jeannene.douglass@nebraska.gov

Jed

STATE OF NEBRASKA

DEPARTMENT OF CORRECTIONAL SERVICES

Harold W. Clarke

Director

MEMORANDUM

E. Benjamin Nelson
Governor

DATE: September 18, 1996

TO: Records Staff

FROM: Ron Riethmuller, Records Administrator *RR*

RE: Computing Parole Eligibility and Discharge Dates on Inmates Serving Mandatory Minimums

To comply with the recent Attorney General's Opinion concerning mandatory minimum sentences, the following procedures shall be used to insure that mandatory minimum terms are served.

We will proceed with the procedure as was discussed at the July 12, 1996 records meeting regarding parole eligibility computation. The parole eligibility date is computed based on the inmate serving the entire mandatory minimum term provided by statute plus one-half (1/2) of the balance of any court imposed minimum term beyond the mandatory minimum. For example, a total sentence of 8 to 14 years for a 1DF (mandatory minimum of 3 years) is computed as follows:

Parole Eligibility: Inmate must serve the entire three (3) years PLUS one-half (1/2) of the remaining five (5) years, a total of 5 1/2 years for parole eligibility. This procedure, which complies with the language in LB 371, prohibits awarding of good time on mandatory minimums.

The following procedure will insure that no inmate is discharged prior to serving the mandatory minimum.

1. The discharge date on the maximum term will be compared with the mandatory minimum provided by statute.
2. If the discharge date is prior to the inmate serving the entire statutory mandatory minimum, the discharge date shall be changed to reflect the later date.

Example: If an inmate is sentenced to a term of 3 to 5 years for a 1DF under LB 816, both the parole eligibility and discharge dates would be 3 years.

3. If the discharge date on the maximum term is longer than the mandatory minimum, no changes will be made on the discharge date.

I have reviewed the mandatory minimums on all active inmates; this procedure will extend the discharge dates of nine inmates. A list of the affected inmates is attached.

xc: Harold W. Clarke
Larry A. Tewes
George D. Green
Laurie Smith Camp
Manuel S. Gallardo

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From: Microsoft Outlook on behalf of Wilken, Kevin
Sent: Monday, September 30, 2013 8:43 AM
To: Johnson, Takako
Subject: RE: PED later than TRD
Attachments: RE: PED later than TRD

Sender: Kevin.Wilken@nebraska.gov

Subject: RE: PED later than TRD

Message-Id: <94721B8F88C17F478959DFB98D8CFBC43BC02D93@STNEEX10MB01.stone.ne.gov>

To: takako.johnson@nebraska.gov

From: Wilken, Kevin
Sent: Monday, September 30, 2013 8:43 AM
To: Johnson, Takako
Subject: RE: PED later than TRD

He is serving a mandatory minimum sentence. His PED is later than his trd to ensure that he serves the entire mandatory minimum and is not paroled before he has served the entire 15 year mandatory minimum.

From: Johnson, Takako
Sent: Thursday, September 26, 2013 2:25 PM
To: Wilken, Kevin
Subject: PED later than TRD

Hi Kevin,

Re: , is his PED a typo, or is it possible to have a PED later than a TRD?

(I'm looking at the Time/Sentence Inquiry page on PCOM.)

Or was that just a clerical error when he came to NDCS....

Thank you for any clarification. :)

Takako Johnson
Staff Assistant I
Sex Offender Evaluation Services
NSP Mental Health
(402) 479-3452

CONFIDENTIALITY NOTICE: This e-mail communication and any attachments may contain information that is privileged, confidential and exempt from disclosure under applicable law. The designated recipient(s) are prohibited from re-disclosing this information to any other party without authorization and are required to destroy the information after its stated need has been fulfilled. If you are not the intended recipient, you are hereby notified that you have received this communication in error and that any review, disclosure, dissemination, distribution or copying of it or its contents is prohibited by federal and/or state law. If you have received this communication in error, please notify the above immediately and destroy all copies of this communication, including any attachments.

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From: Microsoft Outlook on behalf of Britten, Fred
Sent: Tuesday, October 22, 2013 3:34 PM
To: Folts-Oberle, Angela; Hank, Colby
Subject: RE
Attachments: RE

Sender: Fred.Britten@nebraska.gov

Subject: RE

Message-Id: <A9F0C44D51A18C4DB7D24ECF06C1A9DA4A456298@STNEEX10MB02.stone.ne.gov>

To: Angela.Folts-Oberle@nebraska.gov

To: Colby.Hank@nebraska.gov

From: Britten, Fred
Sent: Tuesday, October 22, 2013 3:34 PM
To: Folts-Oberle, Angela; Hank, Colby
Subject: RE: _____

OK Thanks

Fred Britten

Warden
Diagnostic & Evaluation Center
402-479-6339
fred.britten@nebraska.gov

From: Folts-Oberle, Angela
Sent: Tuesday, October 22, 2013 3:27 PM
To: Britten, Fred; Hank, Colby
Subject: RE: _____

I've reviewed the sentencing documents we received and compared them to online court records. They all read the same and we have his sentence calculated correctly. Central Records also reviews my entries and did not contact me on any possible errors with him. He does have a 3 year mandatory minimum sentence he must serve on one of the counts which he might be referring to and this actually extends his PED further than a sentence without a mandatory minimum.

Sgt. Hank, thanks for letting me know about this so it could be reviewed.

Angela Folts-Oberle
DEC Records Manager
402-479-6341
Angela.folts-oberle@nebraska.gov

From: Britten, Fred
Sent: Tuesday, October 22, 2013 3:08 PM
To: Folts-Oberle, Angela; Hank, Colby
Subject: RE: _____

Thanks for the info, keep me posted.

Fred Britten

Warden
Diagnostic & Evaluation Center
402-479-6339
fred.britten@nebraska.gov

From: Folts-Oberle, Angela
Sent: Tuesday, October 22, 2013 3:02 PM
To: Hank, Colby; Britten, Fred
Subject: RE: _____

I'll review his case today and follow up.

Angela Folts-Oberle
DEC Records Manager
402-479-6341
Angela.folts-oberle@nebraska.gov

From: Hank, Colby
Sent: Tuesday, October 22, 2013 3:00 PM
To: Folts-Oberle, Angela; Britten, Fred
Subject:

I was listening to a phone call from _____, He is claiming to his mother his discharge time is calculated incorrectly and he is getting out 3 years earlier than he should. I don't know if he is right or not but you might want to look into it. He also said he wrote the Warden that he couldn't go to TSCI due to fear. He said on the phone it is due to programming, or his perception of lack of programming at TSCI. So what she said was backward of what he told her in the phone call. This was made on 10-18-13 at 1849 hours.

Colby Hank, Armory Sergeant
DEC/LCC CERT Team Leader
Diagnostic and Evaluation Center
402-479-6382
colby.hank@nebraska.gov

From: Microsoft Outlook on behalf of Peterson, Nikki
Sent: Thursday, October 31, 2013 3:48 PM
To: Baum, Mickie
Subject: Please review this draft
Attachments: Please review this draft

Sender: nikki.peterson@nebraska.gov

Subject: Please review this draft

Message-Id: <3C95EE3D15EA4F41A4B4BC00230F55D53FCAB1F4@STNEEX10MB02.stone.ne.gov>

To: Mickie.Baum@nebraska.gov

From: Peterson, Nikki
Sent: Thursday, October 31, 2013 3:48 PM
To: Baum, Mickie
Subject: Please review this draft
Attachments: Meeting Minutes 10-31 draft.docx

Nikki Peterson
Records Manager I
Special Services Unit
NDCS-Central Records Office
402-479-5773

STATE OF NEBRASKA

Department of Correctional Services
 Dave Heineman, Governor
 Michael Kenney, Director



Date: October 31st, 2013

Time: 9am

Subject: Sentence Review Committee Meeting Minutes

Present: Kyle Poppert, Kathy Blum, Jeff Beatty, Mickie Baum, George Green, Sharon Lindgren, Ginger Shurter, Nikki Peterson,

Absent: NONE

Agenda:

Current Business:

State v. Banes- Sentences: When concurrent sentences are imposed the jail time credit (JTC) is applied against EACH concurrent sentence, because the longest sentence determines the offender's actual length of time in prison.

Issue: Current calculations provide the JTC only applied to the initial sentence.

Status: Mickie Baum is currently auditing sentences to catch all changes. This list of changes is very long; currently Mickie is the only staff working on this list. As facilities records staff are able, the list will be broken down by facility.

Conclusion: We audit these sentences to our best abilities. If a judicial issue arises as a result we will handle it then.

DUI- Mandatory Minimum: State Statue language interpretation of "at least" meaning a mandatory minimum sentence.

Status: Mickie Baum is currently working recalculating sentences for NSP and OCC, all other facilities are complete.

Conclusion: Again, audit to the best of our abilities. Notify the inmates of the changes. And provide them with a consistent response when questions arise.

George Shepard v. Houston- District Court Decision- Shepard a sex offender who will be required to serve his full term for failing to provide his DNA as outlined in the DNA Identification Act effective July 15, 2010. District Court ruled unconstitutional for the DCS to withhold any good time.

Issue: There are 28 other inmates who fall under this criteria.

Conclusion: Will the Attorney General appeal the decision. Future issues could arise from this case.

_____ Wrote an Inmate interview request to the Records Administrator to have his sentenced reviewed for a Jail time Credit with the intention he deserved a lesser sentence. Mickie Baum reviewed his sentence and noticed the sentence was indeed entered into CTS incorrectly.

Status: Mickie has recalculated the sentence. She discovered the new calculation actually increased. _____ length of stay.

Conclusion: The sentence should be calculated correctly, then give notification to the inmate and appropriate staff at WEC. _____ is currently housed at the WEC, based off new calculations he is no longer qualified for the program. And will soon be transferred to the NSP.

State v. Castillas: The Nebraska Supreme Court affirmed the district court's decision; however the Supreme Court has made an assumption of how the DCS is calculating sentences on the maximum term when there is a mandatory minimum.

Issue: Our current practice is different than that of the court's assumption.

Status: We need to clarify exactly what the Supreme Court's intention is on this, before we as a department act.

Conclusion: We have been performing calculations our current way for years. We are now aware of this situation, we will act when we are specifically told our current way is wrong and it needs to be changed.

New business:

Revised State Statue 83-187- The DCS currently complies with sections (1) and (2) but not in compliance with section (3) the DCS shall provide a copy of the discharge to the court, county sheriff, and local police department if applicable.

Issue: There is no consistency with contact persons to be able to provide these copies.

Possible solution: Develop a template of "Inmate Release or Discharge" to include his release date, that will notify county courts and sheriffs. This notification includes Parolees and Discharges, will not to include the death of an inmate or RFP. Possibly develop an automated system that would send out weekly notifications AFTER the inmate has ACTUALLY been released from a facility. Aim to implement by December 1st, 2013. Have Legal proof the template before its implemented.

Attorney General opinion regarding State Ombudsman reviewing of inmate files. Per state statue the Ombudsman office is allowed access to inmate files. Due to confidentiality purposes copies made from inmates file should not be shared and solely used by the ombudsman.

Solution: If the ombudsman office needs a copy of any documents from an inmate's file, require them to send us an email requesting specific documents and we shall provide them. This is to protect records staff by showing a date and time the request was received and what exact documents were provided. (Notify Director Kenney prior to making this change.)

Next Meeting: TBA

From: Microsoft Outlook on behalf of Smith, Dawn Renee
Sent: Friday, May 09, 2014 5:24 PM
To: Wang, Jen Rae; Bell, Robert; Roush, Sue
Cc: Kenney, Mike; Collins, Deb
Subject: Media contact
Attachments: Media contact

Sender: DawnRenee.Smith@nebraska.gov

Subject: Media contact

Message-Id: <60417654F369794DBAFD1C233903DB3F3D98D7F5@STNEEX10MB03.stone.ne.gov>

To: JenRae.Wang@nebraska.gov

To: Robert.Bell@nebraska.gov

To: sue.roush@nebraska.gov

Cc: mike.kenney@nebraska.gov

Cc: Deb.Collins@nebraska.gov

Bcc: Diane.Sabatka-Rine@nebraska.gov

Bcc: Win.Barber@nebraska.gov

Bcc: Benny.Noordhoek@nebraska.gov

Bcc: Joe.Baldassano@nebraska.gov

Bcc: Richard.Cruickshank@nebraska.gov

From: Smith, Dawn Renee
Sent: Friday, May 09, 2014 5:24 PM
To: Wang, Jen Rae; Bell, Robert; Roush, Sue
Cc: Kenney, Mike; Collins, Deb
Subject: Media contact

Received a call today from LJS, Cathy Huddle, regarding the death of _____ on April 26th. LJS received a call from an Inmate who provided information on the death as well as attributing it to crowding. I explained what I could of the death, noted it was investigated by us and the State Patrol. Also reminded her the Penitentiary has been double-bunked for decades. In her scenario, the Inmate who died was asking for a new cell mate and we couldn't move him because of crowding. I explained that many inmates request a different cell mate and we have to determine if that is necessary. But, in the event we found there was a security or safety reason to move them, crowding would play no role.

Also received a call from OWH, Todd Cooper, regarding a community custody Inmate who was at court in Douglas County on a pass. Cooper said the Judge was shocked...I told him our staff had been in touch with the court (I think the bailiff) and had let them know the inmate was going to be there. The concern was that the inmate was sentenced to a 14 to 15 year sentence with a mandatory minimum of 5 years. This gets very complicated to figure, but basically according to statute the mandatory minimum applied to calculating PED not to TRD. So if sentenced to 14 to 15 years...PED is figured: $14-5=9$. $9/2=4.5$. $5+4.5=9.5$ TRD is calculated: $15/2=7.5$.

What this results in is a 9.5 to 7.5 sentence. Meaning the Inmate discharges in 7.5 years and is never eligible for parole. Cooper stated he knew no Judge knew that the mandatory minimum didn't come off the max term as well. I referenced state statute, which if you're interested is: 83-1,107 section 2 for calculating TRD and 83-1,110 for calculating PED.

Hoping this is it for the weekend...
DR

Dawn-Renee Smith
Legislative & Public Information Coordinator
Nebraska Department of Correctional Services
PO Box 94661
Lincoln, NE 68509-4661
402.479.5713
Dawnrenee.smith@nebraska.gov

At the Nebraska Department of Correctional Services diversity is imperative and integral to our mission. Our Department is committed to an inclusive environment where differences are accepted, valued, and celebrated to foster teamwork and safety.

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From: Microsoft Outlook on behalf of Hopkins, Frank
Sent: Sunday, June 15, 2014 1:16 PM
To: DCS CEO; Torres, Helen
Subject: Fw: Sentence calculations
Attachments: Fw: Sentence calculations

Sender: Frank.Hopkins@nebraska.gov

Subject: Fw: Sentence calculations

Message-Id: <c9d3bda5-09da-4846-90b9-42a0373dbf26@blur>

To: Helen.Torres@nebraska.gov

To: Diane.Sabatka-Rine@nebraska.gov, Expanded: DCS.CEO@nebraska.gov

To: Denise.Skrobeckl@nebraska.gov, Expanded: DCS.CEO@nebraska.gov

To: Mario.Peart@nebraska.gov, Expanded: DCS.CEO@nebraska.gov

To: Ryan.Mahr@nebraska.gov, Expanded: DCS.CEO@nebraska.gov

To: Richard.Cruickshank@nebraska.gov, Expanded: DCS.CEO@nebraska.gov

To: Charles.West@nebraska.gov, Expanded: DCS.CEO@nebraska.gov

To: Brian.Gage@nebraska.gov, Expanded: DCS.CEO@nebraska.gov

To: Pamela.Morello@nebraska.gov, Expanded: DCS.CEO@nebraska.gov

To: Fred.Britten@nebraska.gov, Expanded: DCS.CEO@nebraska.gov

To: Barbara.Lewien@nebraska.gov, Expanded: DCS.CEO@nebraska.gov

From: Hopkins, Frank
Sent: Sunday, June 15, 2014 1:16 PM
To: DCS CEO; Torres, Helen
Subject: Fw: Sentence calculations

Fyi.

Sent via DroidX2 on Verizon Wireless™

-----Original message-----

From: "Poppert, Kyle" <Kyle.Poppert@nebraska.gov>
To: "Baum, Mickie" <Mickie.Baum@nebraska.gov>, "Shurter, Ginger" <Ginger.Shurter@nebraska.gov>, "Johnson, Takako" <Takako.johnson@nebraska.gov>, "Granholm, Val" <Val.Granholm@nebraska.gov>, "Wellman, Mary" <Mary.Wellman@nebraska.gov>, "Folts-Oberle, Angela" <Angela.Folts-Oberle@nebraska.gov>, "Thompson, Anne" <anne.thompson@nebraska.gov>, "Jordan, Curt" <Curt.Jordan@nebraska.gov>, "Wilken, Kevin" <Kevin.Wilken@nebraska.gov>, "Lytle, Diane" <Diane.Lytle@nebraska.gov>, "Kristalyn, Kendra" <kendra.kristalyn@nebraska.gov>, "Wayne, Larry" <Larry.Wayne@nebraska.gov>, "Hopkins, Frank" <Frank.Hopkins@nebraska.gov>
Sent: Sun, Jun 15, 2014 17:01:59 GMT+00:00
Subject: Sentence calculations

By now, you should have received a copy of the Director's memo regarding the calculation of maximum terms related to those inmates who are serving a mandatory minimum term. The Central Records Office is in the process of identifying all those inmates with mandatory minimum sentences and will be contacting you soon regarding the recalculation of those sentences.

I want you all to know how much I appreciate your efforts and dedication to this process. We are in a unique position, in that we cannot make mistakes when it comes to the calculation of inmate sentences. Public safety and Inmate rights have always been our top priority.

I want you to know that I understand the issues are much more complicated than the simplicity portrayed in the media. We work with seven different good time laws that include statutory good time, meritorious good time, jail credits, blood credits, discretionary parole, mandatory parole and mandatory discharge by the Board of Parole. We process nearly 1500 good time calculations per month related to LB 191 good time credit. That number increases by 10% each month. It is not unusual for Judges or attorneys to call our office requesting information on how to proceed with a sentencing order. This process can become even more complicated when inmates are sentenced under more than one good time law, have cases under appeal, have commitment orders are not clear, including those that don't specify correct terms, are inconsistent with state statute, and are often incomplete. The habitual criminal enhancement is another such example. Furthermore, issues are complicated when are required to interpret court rulings, opinions from the Attorney General's Office and our own legal counsel regarding their effect on a particular sentence or good time law.

It is in fact, these inconsistencies and vagueness of these statutes and opinions that prompt review from time to time by the courts. We appreciate the clarity these opinions can bring. We will continue to work closely with all of these groups to make our system the best it can be. I welcome the scrutiny and appreciate the opportunity to improve our division.

Sentencing challenges are not unique to our system. We rely on decade's worth of experience and use each opportunity to teach those who will be our records managers in the future. I am committed to improving our processes.

Thank you again for all your efforts and dedication to a difficult profession.

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Kyle

Kyle J. Poppert, Administrator
Nebraska Department of Correctional Services
Classification, Inmate Records, Warrants & Extraditions
Phone: (402) 479-5750

Cell

Fax: (402) 742-2349

Kyle.Poppert@nebraska.gov

Change is inevitable, growth is optional.

From: Microsoft Outlook on behalf of Poppert, Kyle
Sent: Saturday, June 21, 2014 11:59 AM
To: Brown, Rochele; Kenney, Mike; Smith, Dawn Renee
Subject: RE: Time calculations
Attachments: RE: Time calculations

Sender: Kyle.Poppert@nebraska.gov

Subject: RE: Time calculations

Message-Id: <84061BD94EF64BBCE765BD7E9EBD1F48F5F5B2@STNEEX10MB04.stone.ne.gov>

To: Rochele.Brown@nebraska.gov

To: mike.kenney@nebraska.gov

To: DawnRenee.Smith@nebraska.gov

186

From: Poppert, Kyle
Sent: Saturday, June 21, 2014 11:59 AM
To: Brown, Rochele; Kenney, Mike; Smith, Dawn Renee
Subject: RE: Time calculations

I don't mean to speak for everyone, but whereas you are finished, I would appreciate you looking at the others to see if there may be some issues we overlooked.

Thank you so much for your assistance.

Kyle

Kyle J. Poppert, Administrator
Nebraska Department of Correctional Services
Classification, Inmate Records, Warrants & Extraditions
Phone: (402) 479-5750
Cell:
Fax: (402) 742-2349
Kyle.Poppert@nebraska.gov

Change is inevitable, growth is optional.

From: Brown, Rochele
Sent: Saturday, June 21, 2014 11:53 AM
To: Kenney, Mike; Smith, Dawn Renee; Poppert, Kyle
Subject: Time calculations

Hi all-

I have finished up my lists from yesterday. I show 22 inmates with new discharge dates past today and have kept those separate from the others.

I do have a concern though, as I was working through my list I noticed that even though a name was on the list, the mandatory minimum did not apply due to an additional sentence that took precedence. The same may be true with the habitual criminal list. My concern is that not all staff that were working on this project have a significant amount of experience in this area and may have easily overlooked something like this.

With your approval, I would gladly take a look over the other calculation sheets to be sure that there are no other sentences like the 2 I had.

Rochele

Rochele Brown
Adult Parole Administration
402-479-5771
rochele.brown@nebraska.gov

From: Microsoft Outlook on behalf of Folts-Oberle, Angela
Sent: Tuesday, June 24, 2014 12:31 PM
To: Brown, Rochele
Subject: FW: Current Inmates with Man Min - all indicators
Attachments: FW: Current Inmates with Man Min - all indicators

Sender: Angela.Folts-Oberle@nebraska.gov

Subject: FW: Current Inmates with Man Min - all Indicators

Message-Id: <136354F925191240AD95D8CF8F1DD2A96215F20A@STNEEX10MB03.stone.ne.gov>

To: Rochele.Brown@nebraska.gov

From: Folts-Oberle, Angela
Sent: Tuesday, June 24, 2014 12:31 PM
To: Brown, Rochele
Subject: FW: Current Inmates with Man Min - all indicators
Attachments: Current Inmates with Man Min - All Indicators.xlsx; MANTITORY MINIMUM SHEET.docx

Angela Folts-Oberle
DEC/LCC Records Manager
402-479-6341
Angela.folts-oberle@nebraska.gov

From: Folts-Oberle, Angela
Sent: Monday, June 23, 2014 1:58 PM
To: Wilken, Kevin; Granholm, Val; Shurter, Ginger; Thompson, Anne; Lytle, Diane; Wellman, Mary; Kristalyn, Kendra
Cc: Smith, Dawn Renee; Castellanos, Sheri; Braddy, Kay
Subject: FW: Current Inmates with Man Min - all indicators

Attached is a roster for our current or active inmates that we need to re-calculate and update CTS. I've attached a worksheet that we have been using for the discharged inmates and it was mentioned that we should all use the same one. Please make sure to fill in the previous TRD and all of your calculations should be double checked by one other Records staff. Call me with any questions. Thanks!

Angela Folts-Oberle
DEC/LCC Records Manager
402-479-6341
Angela.folts-oberle@nebraska.gov

From: Boal, Beth
Sent: Monday, June 23, 2014 1:43 PM
To: Folts-Oberle, Angela; Smith, Dawn Renee; Vandenberg, Abby
Cc: Baum, Mickie; Johnson, Takako; Brown, Rochele
Subject: Current Inmates with Man Min - all indicators

Attached is the updated list that includes 5 possible Man Min indicators (including the new ICF/IDF indicator). Parolees NOT included on this list.

I think the second worksheet, along with the facility specific tab, will be most useful, but I included a few other sortable and non-sortable versions.

Abby – here is what I used. In this case, Offense Begin Date didn't add any, but might be a good cross check.

Rec Cntr CD	ID Number	Inmate Name	Rec Cntr CD	Loct Prfx CD	Loct Sufx Dsc
ADM	73622	MONARREZ STEPHEN I	ADM		
ADM	74745	BAKER JEREMY T	ADM		
ADM	75689	HAYNIE JESTIN	ADM		
ADM	79592	HERRON JONATHAN	ADM		
ADM	80124	RICHART JAMES P	ADM		
ADM	80195	WRIGHT JAMAL S	ADM		
CCL	63534	KAMPE PATRICK D	CCL		
CCL	71273	INDA PABLO A	CCL		
CCL	71793	WILLIAMS TRAYMAYNE V	CCL		
CCL	72104	LEE JOSEPH L	CCL		
CCL	72620	CASILLAS ANTHONY A	CCL		
CCL	73358	RIVERA RICHARD P	CCL		
CCL	73525	JIMENEZ JERRY	CCL		
CCL	74548	JOHNSON TODD A	CCL		
CCL	74755	LEFEVER LUKE E	CCL		
CCL	75005	MURTAUGH JASON M	CCL		
CCL	75020	BONHAM SCOTT B	CCL		
CCL	75156	JOSEPH KENNETH D	CCL		
CCL	75226	SMITH STEVEN L	CCL		
CCL	75807	SUND JERROD R	CCL		
CCL	75809	CRAMER CORY L	CCL		
CCL	77796	POGGE THOMAS B	CCL		
CCL	78938	ADAME JOSE	CCL		
CCL	97751	O'CONNELL JILL R	CCL		
CCL	98035	HILL DESSHAMETT M	CCL		
CCO	61611	ROEMMICH KENNETH	CCO		
CCO	64158	COLEMAN VICTOR L	CCO		
CCO	64182	COSTELLO JACK J	CCO		
CCO	71409	MATUSKA BERNARD J	CCO		
CCO	74000	MARTINEZ JESUS	CCO		
CCO	75016	TURNER BRICE L	CCO		
CCO	75374	PAGE WILLIAM L	CCO		
CCO	75388	LIGGINS ANTONEIL	CCO		
CCO	75567	MATTHEWS JARROD	CCO		
CCO	76202	PHEILSHIFTER CHRISTOPHER R	CCO		
CCO	76277	LAWRENCE RONNIE E	CCO		
CCO	77097	HILL DENNIS V	CCO		
CCO	77708	LUCE JOHN J	CCO		
DEC	64389	CERVANTES MICHAEL L	DEC		
DEC	69064	HARRIS RASHEE	DEC		
DEC	75372	WARE CHARLES	DEC		
DEC	77328	GOOD ANTHONY H	DEC		
DEC	79603	GRIMES TROY E	DEC		

DEC	79606	LAMPKIN ARTTELL	DEC		
DEC	79629	DRIVER LARRY J	DEC		
DEC	79660	LEWIS LAVON E	DEC		
DEC	79715	COVEY JAMES R	DEC		
DEC	79720	BENAVIDES BRAD A	DEC		
DEC	79748	HALLOWELL FRANKLIN L	DEC		
DEC	79759	STRICKLIN DERRICK U	DEC		
DEC	79763	NEWMAN TERRELL E	DEC		
DEC	79816	PEACOCK DONALD J	DEC		
DEC	79852	CUSTER JASON W	DEC		
DEC	79892	DOMACH DIAN	DEC		
DEC	79917	ANDERSON DAVID A	DEC		
DEC	79960	RENDON CORNELLO	DEC		
DEC	79991	SMITH DEANTHONY	DEC		
DEC	80000	FOSTER WILLIAM G	DEC		
DEC	80040	TAYLOR CARLOS D	DEC		
DEC	80041	ENGLISH ERIC L	DEC		
DEC	80050	RIFE BENJAMIN M	DEC		
DEC	80051	RIFE NICHOLAS J	DEC		
DEC	80063	JENSEN KRISTOPHER L	DEC		
DEC	80078	SWIFT MARQUEZE M	DEC		
DEC	80127	OHRT ROSS L	DEC		
DEC	80140	HARDYMARTIN CHARLES E	DEC		
DEC	80192	FOSTER SHYTWAIN	DEC		
DEC	80194	DAVIS ANTHONY D	DEC		
DEC	80210	HARKINS DEREK A	DEC		
DEC	80238	FANT ERIC D	DEC		
DEC	80239	SHOEMAKER CHRISTOPHER D	DEC		
DEC	80254	WALKER DANIEL L	DEC		
DEC	80269	SMEDLEY ANTHONY	DEC		
DEC	80285	BRITT TIMOTHY	DEC		
DEC	80286	MORTENSEN RANDY L	DEC		
DEC	80312	LEVISON KENDALL S	DEC		
DEC	80319	NUNES FREDRICK J	DEC		
DEC	80329	BUSH WILLIAM E	DEC		
DEC	80341	PARAMO ALEX A	DEC		
DEC	80343	SOSA ADRIAN	DEC		
DEC	80370	HUNNEL WARD L	DEC		
LCC	44911	POWERS TERRY L	LCC		
LCC	55144	LANDIS MICHAEL	LCC		
LCC	55537	LOPEZ RUBEN	LCC		
LCC	55760	TUCKER STEVEN L	LCC		
LCC	56346	ZIERKE RODERICK LEE	LCC		
LCC	56742	DIXON ARMON	LCC		

LCC	58240	GREEN SAMUEL E	LCC		
LCC	60644	CALDWELL STEVEN L	LCC		
LCC	61537	FLORES JOSEPH	LCC		
LCC	61980	ROUSE ROY J	LCC		
LCC	62296	AJAMU OJORE M	LCC		
LCC	63722	BENISH RICHARD L	LCC		
LCC	63940	ROUNDTREE CHESTER	LCC		
LCC	64953	BAKER HENRY	LCC		
LCC	66014	WILSON ALLEN J	LCC		
LCC	66676	AXTELL MICHAEL J	LCC		
LCC	67093	LACZ JOHN J	LCC		
LCC	67138	THOMAS MICHAEL J	LCC		
LCC	67761	SHARPLES STEPHEN MICHAEL	LCC		
LCC	69216	STEVENS DANNY R	LCC		
LCC	69274	ZEPEDA-RODRIGUEZ JOSE L	LCC		
LCC	70083	BARBOZA-CRUZ MARTIN	LCC		
LCC	70876	FLEMING KENNETH CURTIS	LCC		
LCC	71321	MOODY DAVON A	LCC		
LCC	71665	JONES WILLIAM S	LCC		
LCC	72044	BUCKLEY JONATHON CHRISTIAN	LCC		
LCC	72072	POKORNY MATTHEW J	LCC		
LCC	72082	WEAVER GEORGE L	LCC		
LCC	72373	VASQUEZ ALBERTO J	LCC		
LCC	72532	COMBS JOHN R	LCC		
LCC	72605	FALCON SHAQUILLE M	LCC		
LCC	73676	CRAIGIE SAMUEL W	LCC		
LCC	73777	MORAN-LOPEZ JOEL F	LCC		
LCC	73787	KISSACK SHAUN M	LCC		
LCC	73826	AKOL WILSON	LCC		
LCC	74172	PORTERFIELD JESSE C	LCC		
LCC	74208	DAVIS TRAVIS	LCC		
LCC	74269	VAWSER BRUCE E	LCC		
LCC	74712	RYAN DWAYNE K	LCC		
LCC	74962	LYLE TYRELL D	LCC		
LCC	75040	JONES CALVIN D	LCC		
LCC	75050	JOURNEY NATHAN C	LCC		
LCC	75173	RAMIREZ LIONARDO	LCC		
LCC	75309	SANTANA HAWK E	LCC		
LCC	75537	REINDERS JUSTIN G	LCC		
LCC	75621	BIRGE PACEDEON P	LCC		
LCC	75708	BORER RANDEL E	LCC		
LCC	76112	GALUSHA ADAM R	LCC		
LCC	76393	LOVE DEANTHONY M	LCC		
LCC	76433	VOZNYUK ALEKSANDR S	LCC		

LCC	76837	NESSLEIN RICO A	LCC		
LCC	76854	MATTHEWS WILLIAM W	LCC		
LCC	77058	WARRACK JOHN T	LCC		
LCC	77094	HAMILTON RYAN	LCC		
LCC	77275	PITTMAN JARIEL A	LCC		
LCC	77312	FLOWERS SEAN C	LCC		
LCC	77366	MANGIAMELI DANIEL R	LCC		
LCC	77489	SANDERS CAMERON L	LCC		
LCC	77846	ALVARADO TELESFORO	LCC		
LCC	77863	BROWN TRE'VAUGHN M	LCC		
LCC	78618	WOOTEN TRACEY	LCC		
LCC	78649	GAMBLE ANTOINE F	LCC		
LCC	78992	ALKIRE MICHAEL A	LCC		
LCC	79076	HYATT JAMES M	LCC		
LCC	79199	STEWART DEON	LCC		
LCC	79471	PILCHER JAMES A	LCC		
LCC	80100	CASTILLO MIGUEL A	LCC		
LCC	80220	CLEMONS JORDAN W	LCC		
NCW	95236	KERBY JENNIFER LYNN	NCW		
NCW	95662	LEACH KATHERINE	NCW		
NCW	95833	SEASTRONG ELISA D	NCW		
NCW	95900	DIXON MICHAEL M	NCW		
NCW	96092	YAGER JODI M	NCW		
NCW	96483	MCKINLEY ANGELA R	NCW		
NCW	97021	GLAZE ROSE M	NCW		
NCW	97232	DURYEA MICHELLE F	NCW		
NCW	97523	DONNERSON JAMICCIA	NCW		
NCW	97639	GALLEGOS VICTORIA T	NCW		
NCW	97701	MANN BRIDGETTE L	NCW		
NCW	97873	NEWSOM SONDRAS	NCW		
NCW	97892	JOHNSON ELIZABETH L	NCW		
NCW	98060	RANDALL MICHELLE L	NCW		
NCW	98296	CHERECWICH DANIELLE A	NCW		
NCW	98318	FOSTER LORRAINE	NCW		
NCW	98395	DUBOIS JUSTINE	NCW		
NCW	98467	HOLBROOK DIANE	NCW		
NCW	98482	CHAMBERS HOLLIE	NCW		
NCW	98492	LIVINGSTON SEELETTER	NCW		
NCW	98528	LAUDENKLOS STACEY A	NCW		
NCY	74065	RAMIREZ ANTHONY	NCY		
NCY	74741	PROVENCHER JOSHUA L	NCY		
NCY	76527	WILLIAMS DAION J	NCY		
NCY	77634	VAZQUEZ JUAN C	NCY		
NCY	78209	BARNES GARY D	NCY		

NCY	79082	LAMERE DAELAN D	NCY		
NCY	79891	SMITH DAMARQUIECE R	NCY		
NCY	80203	DRAPPEAUX DAKOTA D	NCY		
NCY	80373	OLSEN BENJAMIN C	NCY		
NSP	38572	DAVLIN CLIFFORD JOHN	NSP		
NSP	49081	COLE FRANKIE LEVI	NSP		
NSP	51276	MONTGOMERY MICHAEL JO	NSP		
NSP	51637	RHODES KENNETH	NSP		
NSP	54529	CASADOS DARREN	NSP		
NSP	56001	BUGGS MARVIN	NSP		
NSP	56768	OSBORNE TONY W	NSP		
NSP	56881	THILLE LAURENCE M	NSP		
NSP	57396	NEAL ALONZO	NSP		
NSP	58221	RODRIGUEZ NOAH	NSP		
NSP	58528	PORTER DAVID	NSP		
NSP	59245	JOHNSON TIJUANA L	NSP		
NSP	59411	KUTA DANIEL	NSP		
NSP	59709	MILLER PATRICK	NSP		
NSP	59746	LAFRENIERE MICHAEL V	NSP		
NSP	60287	LADWIG JEROMY	NSP		
NSP	61442	ROBINSON EDWARD	NSP		
NSP	61756	PARROTT LEE A	NSP		
NSP	61913	SWEET SHANE ROY	NSP		
NSP	62735	AGEE TIMOTHY E	NSP		
NSP	62738	WEICHMAN ROGER L	NSP		
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TSC	77642	SAVERY JAMES S	TSC		
TSC	77834	CHANDLER SHAD A	TSC		
TSC	77848	FUENTES TIMOTHY L	TSC		
TSC	77871	MORRIS SHANE M	TSC		
TSC	77907	ADAMS JESSE C	TSC		
TSC	77941	CRAVEN JAMES L	TSC		
TSC	77943	AMERSON HORACE L	TSC		
TSC	77985	RYAN CORBIN J	TSC		
TSC	78032	LANER JAKE E	TSC		
TSC	78061	PATTANGALL DOUGLAS D	TSC		
TSC	78137	MEYERS JOHN	TSC		
TSC	78163	CULPEPPER TROY	TSC		
TSC	78203	TORPY JEREMY	TSC		
TSC	78215	NEEMEYER MICHAEL	TSC		
TSC	78337	KNUTSON SHAD M	TSC		
TSC	78350	SMITH PHILIP F	TSC		
TSC	78358	ROBINSON DARSHAWN D	TSC		
TSC	78366	HARROD STEVEN I	TSC		
TSC	78373	MAJORS MICHAEL	TSC		
TSC	78375	GOMEZ JEFFREY A	TSC		
TSC	78432	SMITH CLARENCE	TSC		
TSC	78481	HILL THYLUN M	TSC		
TSC	78516	DEXTER MARKE T	TSC		
TSC	78517	GARCIA DANNY J	TSC		
TSC	78569	NIEVES-LEYVA ARTEMIO	TSC		
TSC	78590	JARMAN RICHARD A	TSC		
TSC	78594	BROWN KEVIN A	TSC		
TSC	78609	MUMIN DUKHAN	TSC		
TSC	78623	RODRIQUEZ-SHELLY TRISTIAN R	TSC		
TSC	78726	BRUMBAUGH RYAN J	TSC		
TSC	78756	WARDLOW RUSSELL	TSC		
TSC	78757	TOLBERT ANGELO D	TSC		

TSC	78770	TURNER ENDRE B	TSC		
TSC	78806	WALLACE JESSE J	TSC		
TSC	78838	LYNN DENNIS J	TSC		
TSC	78844	ALFORD CLINTUS J	TSC		
TSC	78885	MARTINEZ ADRIAN	TSC		
TSC	78901	KUEHN MARK D	TSC		
TSC	78929	HARRIS WILLIAM T	TSC		
TSC	78942	CHURCHICH RAYMOND L	TSC		
TSC	78949	RUSSELL BILLY	TSC		
TSC	79033	THARP JOHN P	TSC		
TSC	79083	WASHINGTON ANTHONY D	TSC		
TSC	79093	BALLEW JOSHUA D	TSC		
TSC	79101	BYRD JEFFREY E	TSC		
TSC	79116	HISKETT JAMES D	TSC		
TSC	79178	FITZGERALD CHADRICK J	TSC		
TSC	79255	VANCE JERIMIAH L	TSC		
TSC	79267	EATON REX W	TSC		
TSC	79347	GRAFE DONALD	TSC		
TSC	79470	GRIFFIN DEVAUGHN J	TSC		
TSC	79529	SHEPHERD ROSS T	TSC		
TSC	79544	HINRICHSEN MATTHEW G	TSC		
TSC	79558	VANACKEREN JOSHUA M	TSC		
TSC	79559	NELSON ROBERT H	TSC		
TSC	80010	WAGNER KAYLA T	TSC		
WEC	64280	SEARS BRIAN A	WEC		
WEC	73088	DOUGLAS ANGELO	WEC		
WEC	76058	ROBINSON XAVIER M	WEC		
WEC	76885	CHEATAMS NATHAN R	WEC		

Begin Date	TRD	Violation Desc
5/19/2011	6/17/2021	THEFT-RECVNG/OPER MV AVOID ARR
11/29/2011	5/25/2017	THEFT RECVNG/ATT THEFT RECVNG
5/1/2012	11/9/2014	POSS DEADLY WEAPN/PROHBTD PRSN
1/29/2014	4/2/2019	POSS DW BY PROH PERSON
4/21/2014	4/19/2017	POSS DEAD WEAPON/TERROR THREAT
5/6/2014	10/18/2018	POSS DEADLY WEAPON BY PROH PER
1/26/2006	3/28/2015	THREATS/THEFT-RECVNG/HAB CRIM
3/23/2010	2/5/2018	DISCHARGE FIREARM AT DWELLING
6/24/2010	6/19/2016	POSS DEADLY WEAPON PROHIB PRSN
7/27/2010	3/5/2017	POSSESSION OF CRACK COCAINE
11/24/2010	8/13/2019	POSSESSION METHAMP 10-27 GRAMS
3/31/2011	2/15/2017	POSSESSION OF METH 10-27 GRAMS
4/26/2011	2/22/2017	INTENTIONAL DISCHARGE OF FA
10/26/2011	10/22/2014	POSS METH 10-27 GRAMS/OBSTRUCT
11/29/2011	11/26/2014	POSSESS FIREARM PROHIB PERSON
1/11/2012	12/19/2014	POSS WI/ DEL COCAINE-TAX STAMP
1/17/2012	9/3/2014	POSS DEADLY WPN, UNATH USE FIN
2/7/2012	11/16/2014	POSSES DEADLY WPN BY PROH PRSN
2/21/2012	5/21/2019	POSS FA BY PROHIBITED PERSON
5/21/2012	5/10/2018	POSSESS FIREARM BY PRHBTD PRSN
5/21/2012	5/19/2015	POSS FIREARM BY PROHBTD PRSN
4/8/2013	9/27/2014	FALSE INFO/SEX OFF REG VIOLATE
10/11/2013	4/6/2015	DUI .15+ 3RD OFFENSE
2/17/2012	10/14/2016	POSSESS METH 10-27 GRAMS
12/19/2012	5/30/2015	POSS DEADLY WEAPON/PROHIBITED
2/8/2005	1/9/2015	POSSESS BURGLAR'S TOOLS/HAB CR
5/18/2006	11/28/2015	ATTEMPTED BURGLARY-HAB CRIMINL
5/24/2006	12/15/2015	THEFT RECVNG STOL PROP-HAB CRI
4/19/2010	3/21/2017	ASSAULT 2ND DG/USE OF FIREARM
7/18/2011	5/19/2015	ASSAULT 2ND DG/USE DEADLY WEAP
1/17/2012	7/29/2015	VISL DEPICT/SEX EXPLICIT COND
3/12/2012	1/18/2017	MANU/DIST OR POSS W/I COCAINE
3/13/2012	11/3/2015	POSSESS F/A BY PROHIBITED PRSN
4/11/2012	3/20/2015	POSSESSION DEADLY WEAPON/FELON
7/20/2012	6/27/2015	POSS FIREARM BY PROHBTD PERSON
8/8/2012	6/4/2015	POSS DEADLY WEAP PROHBTD PRSN
12/19/2012	5/30/2016	POSS DEADLY WEAPON PROHBTD PRS
3/25/2013	2/25/2017	POSS DEADLY WEAPON BY PROH PER
7/13/2006	9/17/2018	POSS METH/POSS METH-HAB CRIMIN
1/22/2009	9/8/2032	ASSAULT 2ND DG/USE DDLY WEAPON
3/9/2012	3/1/2015	POSS DEADLY WPN BY PRHBTD PRS
1/29/2013	8/16/2021	MANSLAUGHTER,POSS DEADLY WEAP
1/30/2014	11/9/2021	POSS WEAPON PROHIBITED PERSON

1/30/2014	1/14/2028	ASSLT 2ND DEG/UDW COM FEL-GUN
1/31/2014	7/3/2022	POSS DW BY PROHIBITED PERSON
2/18/2014	1/1/2051	SEX ASLT CHILD X2/INCEST-X2
3/11/2014	3/10/2026	CRIMINAL IMPERSONATION
2/24/2014	10/29/2022	POSSESSION METH
2/19/2014	1/2/2024	ROBBERY/USE FIREARM TO COM FEL
2/26/2014		1ST DEG MURDER-2/USE DW COM FE
2/26/2014		MURDER 1ST X2/POS DW/MANSLHTER
3/10/2014	3/18/2046	SEX ASLT CHILD-1ST DEG/VIS DEP
3/20/2014		MURDER1ST/UFA/POSS F/A PROH PR
3/27/2014	7/26/2026	ROBBERY/POSS FIREARM PROH PRSN
3/31/2014	6/22/2045	SEXUAL ASSAULT CHILD 1ST DEG
4/1/2014	5/7/2021	POSS FIREARM/TERROR THREATS
4/9/2014	2/15/2033	ROBBERY X2/USE WEAP/FALSE IMP
4/16/2014	10/19/2050	SEXUAL ASSAULT CHILD 1ST DEG
4/17/2014	12/1/2030	MANU/DIST/POSS W/I-COCAINE X 3
4/17/2014	1/21/2033	MANU/DIS/POSS CRACK/POSS WEAPN
4/16/2014	2/1/2027	ASLT 2ND DEG/POSS D/W PROH PER
4/16/2014	2/2/2027	POSS D/W BY PROHIBITED PERSON
4/17/2014	6/25/2028	ATT ASSAULT/USE WEAPON/THREATS
4/17/2014	7/23/2032	DISCH GUN/USE WEAP/CARRY WEAPN
4/23/2014	7/24/2032	SEX ASLT 3RD/VISUAL DEPICTION
5/5/2014	2/6/2041	SEX ASSAULT CHILD 3RD DEG/PRIO
5/5/2014	3/6/2017	POSS DEADLY WEAPON BY PROH PER
5/6/2014		MURDER 1ST X 3/USE WEAPON X 3
5/19/2014	3/30/2024	POSS DEADLY WEAPON (HABITUAL)
5/13/2014	5/28/2017	POSS WEAPN/POSS MACH-SHORT GUN
5/21/2014	4/25/2028	SEXUAL ASSAULT CHILD 1ST DEG
5/21/2014	2/5/2017	POSS FIREARM BY PROHIBITED PER
5/28/2014	6/6/2033	TERRORISTIC THREATS (HABITUAL)
5/29/2014		MURDER X3/USE WEAP X3/POSS WEA
5/29/2014	2/7/2024	ASSLT BY CONFINED PER-HABITUAL
5/29/2014	3/28/2018	MANU/DIST/POSS W/I DISTRIBUTE
6/2/2014	9/18/2017	POSS GUN-PROHIB PERSON/POSS CS
6/3/2014	3/12/2020	POSS DEADLY WEAPON BY PROH PER
6/5/2014	9/15/2021	OPER MV/POSS FIREARM/POSS METH
6/10/2014	12/5/2043	POSS FIREARM/ASSLT OFF/RESIST
6/12/2014	9/15/2025	FELON-POSS/ATT FELON-POSS X 3
10/22/1993	2/13/2029	ARSON 2ND DEGREE
4/4/2001	8/8/2015	SEX ASLT CHILD 1ST DG-HAB CRIM
6/29/2001	11/11/2039	MURDER 2ND/POSSESS CS W-I DEL
8/21/2001	6/19/2028	MANSLAUGHTER-HABITUAL CRIMINAL
1/15/2002	7/22/2016	SEX ASLT OF CHILD SUBSEQUENT.
4/4/2002	11/27/2071	POSSESSION COCAINE/THEFT-RCVNG

2/21/2003	8/6/2020	SEXUAL ASSAULT OF A CHILD
7/28/2004	2/2/2015	ROBBERY-HABITUAL CRIMINAL
1/28/2005	7/27/2064	KIDNAP/SEX ASLT 1ST-2ND OFFENS
4/26/2005	2/17/2040	SEX ASLT CHILD SUBS/SEX ASLT 1
6/28/2005	9/4/2071	THRSTS/ASLT 2D/ASLT OFCR-HAB CR
7/28/2005	1/2/2044	THEFT-RCVNG/POS FIN TRAN DV-HC
4/18/2006	12/8/2035	ROBB/ATT ROBB/HABITUAL CRIM
10/31/2006	2/1/2031	1ST DEG SEX ASSLT/MINOR
5/15/2007	5/27/2045	ROB/USE WPN/FLS IMPR-HAB CRIM
10/4/2007	9/22/2025	POSSESS METH-HABITUAL CRIMINAL
12/18/2007	12/8/2032	SEX ASLT CHILD 3RD DG 2ND OFF
11/29/2007	5/22/2017	POSS FTA/POSS METHAMP-HAB CRIM
4/30/2008	9/12/2017	ASLT 2ND-HAB CRIMINAL/ESCAPE
3/3/2009	7/27/2018	SEX ASLT ON CHILD 2ND DG/PRIOR
3/12/2009	7/3/2027	POSS METH/TERR THRSTS/USE OF FA
8/7/2009	2/24/2015	POS METH W-I DIST/DIST COUNTER
1/25/2010	3/1/2049	SEX ASSAULT 1ST DEGREE-CHILD
3/30/2010	7/16/2019	ROBBERY/USE OF A WEAPON
6/3/2010	12/14/2019	ROBBERY/USE OF DEADLY WEAPON
8/16/2010	2/8/2075	KIDNAPPING/USE FA COMMIT FELNY
8/18/2010	12/8/2020	TER THRSTS/USE DDLY WPN/CRUELTY
8/24/2010	9/26/2024	DEL/INTENT DEL COCAINE BASE
10/12/2010	1/22/2021	AVOID ARR/TAMPER/DRV DUR REV
11/15/2010	11/25/2022	SEX ASLT CHILD 3RD DG PRIOR
11/23/2010	4/2/2018	ASLT 1ST/USE FA/ATT ROBBERY
5/31/2011	6/22/2029	SEX ASLT CHILD 3RD DG/CHILD AB
6/13/2011	8/8/2016	POS W-I DEL METH/POS WPN/DSCHG
2/2/2011	6/21/2047	SEXUAL ASSAULT OF CHILD 1ST DG
6/20/2011	9/12/2059	ATTEMPTED ROBBERY
1/29/2013	9/26/2015	FORGERY 2ND DG/TERROR THREATS
8/25/2011	9/3/2031	ASLT 2ND DG/DISCHARG FA DWELLG
9/9/2011	6/6/2015	TER THRSTS/USE DDLY WPN/FLS IMP
11/21/2011	9/21/2023	ROBBERY/USE OF A DEADLY WEAPON
12/29/2011	3/16/2020	ROBBERY X3, DISCH FA BLDG/VEH
1/19/2012	3/5/2017	POSS D/W BY PRHBITED PERSON
1/23/2012	7/3/2017	SEX ASSLT 1ST X2; VSL DEPICT
2/14/2012	11/12/2023	POSSESS F/A BY PROHBTED PERSON
3/6/2012	12/21/2027	SEXUAL ASSAULT OF CHILD 1ST
4/4/2012	12/24/2050	MURDER 2ND DEGREE, USE WEAPON
4/16/2012	8/22/2033	POSS DEADLY WEAP, TT, USE WPN
5/8/2012	12/11/2038	SEXUAL ASSAULT/CHILD 1ST DEG
7/11/2012	4/4/2042	SEXUAL ASSAULT/CHILD 1ST DEGRE
8/28/2012	2/23/2044	ASSAULT 1ST, USE F/A COMMIT FEL
9/4/2012	10/25/2026	UNLWFL DISCH FA, USE FA COMMIT

11/7/2012	7/6/2018	POSS METHAMPHETAMINE
11/8/2012	8/9/2021	ATT 1ST DG MRDR/USE FA COM FLN
12/17/2012	4/29/2019	POSS MARIJ,DOM ASSLT,THEFT REC
12/21/2012	8/18/2021	VISUAL DEPICT/SEX EXPLICIT X3
1/28/2013	3/14/2022	POSSESS CONT SUB-COCAINE BASE
1/24/2013	8/2/2018	TERR THREATS/POSS DEAD WPN PRH
2/4/2013	3/1/2167	HUMN TRAFF MINR SEX ACT/SEX AS
2/22/2013	8/1/2022	ATT ASSLT 2ND/USE DEAD WEAP
4/11/2013	10/9/2022	DISTRIBUTE C/S IN SCHOOL ZONE
4/16/2013	8/22/2024	ATT ASSAULT/USE OF DEADLY WEAP
8/16/2013	6/25/2027	ATT ROBBERY/POSS WEAP/MANSLAUG
8/21/2013	4/8/2023	POSS WEAPON/ASSLT BY CONF PERS
10/18/2013	3/26/2017	POSS DEADLY WEAPON BY PROH PER
11/6/2013	4/4/2043	SEXUAL ASSAULT/CHILD 1ST DEG
11/18/2013	6/5/2045	ROBBERY X 5/USE WEAP/POSS WEAP
1/14/2014	12/8/2016	POSS WEAPON PROHIBITED PERSON
4/30/2014	1/4/2048	AID/ABET POSS GUN/ACC-MURDER
5/19/2014	12/13/2017	DISTRIBUTE C/S TO MINOR X 2
4/12/2001		2 DEG ROBBERY/1 DEG ROBBERY
7/27/1999		DUI - MANSLAUGHTER
6/25/2005	1/23/2039	FORGERY 6 CNTS/UNAUTH USE FTD
12/2/2005	3/13/2030	BURGLARY/CRIMINAL POSSESS-FTD
6/20/2006	11/8/2029	CHILD ABUSE
8/23/2007	9/7/2015	BURGLARY 3 CNTS
9/14/2009	1/26/2021	POSSESS CONTROLLED SUB-METH
6/8/2010	7/13/2023	POSS METH 10-27 GMS/DEL C/S
		AID/ABET MURDER 2ND DEGREE
9/21/2011	2/4/2024	POSSESS METH 28-139 GRAMS
12/14/2011	10/18/2026	THEFT BY DECEPTION 3 CNTS
6/6/2012	1/2/2020	ATT ROBBERY/USE WEAPON
6/30/2012	10/19/2017	POSSES METH/ATTEMPTED BURGLARY
1/23/2013	4/20/2072	CONSP SEX ASSAULT/PORNOGRAPHY
10/1/2013	11/17/2019	POSS FIREARM PROHIB PERSON
10/25/2013	10/9/2023	POSSESS METH 28-139 GRAMS
1/10/2014	12/25/2022	USE OF FIREARM TO COMMIT FELNY
3/19/2014	2/3/2024	POSSESS CONTROL SUB-METH/HAB
3/27/2014	11/17/2018	UNLAW/INT DISCH FIREARM/ASSAUL
4/10/2014	2/25/2037	POSS DEDLY WPN PRHB PER/ARSON
5/20/2014	5/19/2017	POSS FIREARM PROHBT PERSON 1ST
8/5/2011	9/22/2021	USE FA/UNLWFL DSCRG FA/STLN FA
11/30/2011	6/5/2061	ATT ROBBERY/ASSLT/USE OF WPN
9/12/2012	12/13/2051	MURDER 2ND/USE DEAD WPN (GUN)
3/13/2013	5/3/2017	ATT ASSAULT: 1ST DEG/USE WEAPON
6/5/2013	2/2/2018	ROBBERY X 4/USE OF WEAPON

10/30/2013	1/29/2018	ROBBERY X4/USE WEAP COMMIT FEL
3/12/2014	7/18/2030	ROB/UFA COM F/FLS IMP/P STL FA
5/8/2014	5/14/2026	ROBBERY/USE DEADLY WEAPON
6/16/2014	7/16/2043	THREATS/ASSLT 1ST/USE FIREARM
11/23/1993		ASSLT-1STDEG/SEXL ASSLT-1W/HB
12/30/1996	5/28/2021	THEFT-RCVNG/DRV AVD ARRST
7/24/1998	5/13/2019	ASLT 1ST DG/USE DDLY WPN
10/13/1998	12/30/2032	POSSESSION FA BY FELON-HC
11/20/2000	10/7/2027	SEX ASSAULT OF CHILD 2ND OFFEN
10/22/2001	6/20/2021	FORG 2ND DG(HC) MANSLAUGHTER
4/8/2002	8/2/2019	THEFT BY RECEIV/POSS CNT SUBS
3/12/2002	3/29/2047	ATT SEX ASLT/SEX ASLT 1 DEG
11/21/2003	5/28/2033	MURDER 2ND DG/USE DEADLY WEAPN
10/16/2002	10/27/2025	BURG-HAB CRIM/TERR THRT/US F/A
4/29/2003	1/25/2023	ROBBERY-HABITUAL CRIMINAL
9/16/2003	7/24/2033	ROBBERY/BURGLARY
11/4/2003	9/15/2028	DELIVER METH/DELIVER MJ-H.C.
1/12/2004	6/7/2033	THEFT BY DECEPTION-HABIT CRIM
1/15/2004	1/26/2021	BURGLARY/HABITUAL
5/7/2004	8/24/2021	2 CTS 1ST SEX ASSLT/2CTS CHILD
12/27/2004		MURDER 1ST DG/USE DEADLY WEAPN
3/4/2005	5/22/2029	ROBBERY/USE WEAPON/POSS WEAPON
4/11/2005	5/29/2017	SEXUAL ASSAULT OF CHILD 2ND
12/7/2006	9/25/2014	POSS W/I DELIVER MARIJUANA-H C
9/8/2005	6/17/2015	POSS METH-H.C./THEFT RECEIVING
9/29/2005	11/12/2016	THEFT BY DECEPTION-HAB CRIMINL
3/21/2006	5/27/2020	ASLT OFFICER 3RD DG-HAB CRIMIN
5/24/2006	5/15/2023	BURG/HAB CIRM/A ESCP/POSS FA
5/26/2006	12/19/2037	ASLT 2ND/USE WPN/POS WPN-HAB C
6/22/2006	1/15/2017	BURGLARY-HABITUAL CRIMINAL
10/2/2006	12/30/2020	ROBBERY-HABITUAL CRIMINAL
10/23/2006	11/20/2018	ROBBERY-HABITUAL CRIMINAL
3/6/2007	11/10/2017	ROBBERY-HABITUAL CRIMINAL
5/2/2007	2/10/2019	POS BURGLAR TOOLS-HAB CRIMINAL
10/22/2007	4/8/2017	POSSESS METH/THEFT BY RECEIVNG
12/13/2007	12/9/2030	THEFT BY TAKING-HABITUAL CRIM
2/8/2008	12/22/2022	ROBBERY/ATT ROBBERY-HAB CRIMIN
5/19/2008	6/2/2020	ROBBERY-HABITUAL CRIMINAL
5/13/2008	3/24/2030	BURGLARY
7/11/2008	12/13/2022	BURGLARY/THEFT TAKING-HAB CRIM
2/19/2009	11/24/2021	DOMESTIC ASSAULT 3RD DEGREE
11/19/2008		SODOMY 1ST DG-SEX W/PERSON <14
7/9/2009	9/3/2043	AT ROBBERY/USE WPN/TERR THRTS
11/6/2008		ATT INDECENT LIBERTIES W/CHILD

10/9/2009	2/22/2016	BURGLARY/THEFT-REC/LV INJ ACC
11/5/2009	5/16/2019	POS COC 28-140 GRMS W/I DELIVR
11/13/2009	4/18/2030	BURGLARY-H.C./BURGLARY
12/7/2009	1/26/2037	SEXUAL ASSAULT ON CHILD 1ST DG
4/22/2010	7/8/2022	POSSESSION METH 28-139 GRAMS
5/4/2010	12/8/2044	ASSAULT 2ND DEG/USE D/W FELONY
6/1/2010	8/14/2016	THEFT-TAKING/POSS FA PROHIBIT
10/12/2011	5/11/2023	BURGLARY/THEFT-TKNG/HAB CRIMIN
8/11/2010	4/25/2057	MURDER 2ND DEG/USE DEADLY WEAP
8/26/2010	3/22/2020	POSS METHAMPHET 28-139 GRAMS
9/22/2010	4/26/2022	ATTEMPTED ROBBERY-HAB CRIMINAL
10/28/2010	3/27/2020	POSSESSION OF METHAMPHETAMINE
5/21/2010		ASSAULT 1ST DEGREE
12/14/2010	11/29/2027	ROBBERY/USE OF DEADLY WEAPON
1/5/2011	8/5/2041	DISCH F/A/USE D/W COMM FELONY
1/10/2011	4/10/2043	SEX ASSAULT ON CHILD 1ST DEGR
8/9/2010	7/20/2030	STRANGULATION/DOM ASTL 2ND DG
1/31/2011	1/27/2031	SEXUAL ASSAULT OF CHILD 1ST DG
3/18/2011	10/27/2021	BURGLARY/POSS FA/BURGLARY VOP
3/29/2011	2/14/2023	POSS FA BY PROHIB PERSON-H.C.
3/30/2011	5/16/2018	DISCHARGE OF FA/ATT MURDER 2ND
4/7/2011	7/30/2025	POSS DDLY WPN PROH PRSN/DISCHG
4/22/2011	9/20/2055	SEXUAL ASSAULT ON CHILD 1ST DG
5/4/2011	3/12/2018	DISTR COCAINE BASE NEAR SCHOOL
5/24/2011	10/13/2025	POSSESS METHAMPHET 10-27 GRAMS
5/27/2011	7/29/2030	ASLT 1ST/USE WPN/AT ROBB/DISCH
6/3/2011	9/23/2025	ROBBERY/USE OF DEADLY WEAPON
6/10/2011	12/12/2028	SEX ASLT 1ST/VIS DEPIC/SEX ASL
6/15/2011	9/7/2028	SEX ASLT CHILD 1ST DG/SEX ASLT
6/16/2011	6/10/2018	SEXUAL ASSAULT ON CHILD 3RD DG
7/5/2011	5/24/2019	DIST OXYCODONE NEAR SCHOOL
7/5/2011	11/7/2015	ASSAULT 1ST DG/USE OF FIREARM
7/7/2011	12/19/2015	POS COCAINE 10-28 GRMS W/I DEL
6/30/2011	11/19/2025	OPER MV AVOID ARR-H.C./DUS
7/12/2011	2/6/2026	ROBBERY/USE OF DEADLY WEAPON
7/19/2011	10/20/2018	TERR THREATS/USE DEADLY WEAPON
7/20/2011	6/9/2023	ROBBERY/USE OF DEADLY WEAPON
8/5/2011	7/14/2035	ATT ROBBERY/USE DEADLY WEAPON
8/9/2011	9/10/2025	ASLT 2ND DG/POS WPN PROH PERSN
8/31/2011	1/21/2019	POSS BASE COCAINE 10-27 GRAMS
9/12/2011	3/10/2017	VIS DEPIC SEX COND/SEX ASLT-CH
9/13/2011		MURDER 1ST DG/USE WPN/CONSPIRC
9/23/2011	3/13/2035	ASLT 2ND DG/ASLT 1ST DG/USE WP
9/23/2011	3/10/2021	ASSAULT 2ND DG/USE DEADLY WEAP

9/30/2011		MURDER 2ND DEG/USE F/A COM FEL
10/3/2011	11/1/2023	THEFT BY RCVNG STOLEN PROP H.C
9/28/2011	2/11/2031	BURGLARY-H.C./ASLT OFCR-HAB CR
10/11/2011	10/10/2061	AT ASLT OFCR/USE WPN/MSCHF-H.C
10/17/2011	4/5/2031	POSS DEADLY WPN PROHIB PERSON
10/25/2011	4/30/2031	ASSAULT 1ST DG/USE DEADLY WEAP
11/2/2011	10/23/2021	ROBBERY/USE DDLY WPN/POS STOLN
11/21/2011	6/7/2022	ROBBERY/USE OF DEADLY WEAPON
11/30/2011	11/27/2021	POSSESS FIREARM PROHBT PERSON
12/2/2011	5/25/2017	POSS D/W --FALSE IMPRISMNT
7/5/2012	1/4/2017	POSS C/S W/I DIST--METH
12/20/2011	5/12/2017	POSS DEAD WEAP PROHBT PERSON
12/29/2011	12/26/2015	POSS METH 10-27 GRAMS
12/28/2011	5/8/2022	POSS D/W PRHBT PERSON;USE DW
1/10/2012	5/15/2031	UNLWFUL DISCHG FA/USE FA FELON
12/14/2011	2/8/2020	POSS D/W BY PROHIBITED PERSON
1/20/2012	10/25/2014	POSSES D/W BY PROHIBITED PRSON
1/26/2012	10/18/2028	SEXUAL ASSAULT OF CHILD-1ST DE
1/25/2012	9/28/2023	ROBBERY,USE DEADLY WPN COM FEL
1/27/2012	11/13/2027	ATT ASSLT OFFICER/HABITUAL CRI
2/17/2012	2/9/2021	USE GUN COMMIT FELONY, TT
2/23/2012	4/14/2044	DISCHGE FA OCCUPIED DWELLING
2/23/2012		MURDER,USE DDLY WPN TO COMMT
3/13/2012	3/9/2020	DISCHRG FA @OCCPD DWLLING
3/15/2012	3/12/2015	POSS DEADLY WEAPON BY FELON
3/27/2012	2/21/2029	SEXUAL ASSLT, BURG, USE WPN
3/29/2012	8/19/2023	THEFT RCV STOLEN PROP,BURG,HC
1/17/2012	10/9/2016	POSS DEADLY WPN /PROHBTD PRSN
4/23/2012	8/12/2027	POSS DEADLY WPN/PRHBTD;ASSLT
4/23/2012	2/21/2015	POSS FIREARM BY PROHBTD PERSN
4/4/2012	7/27/2042	SOR VIOL 2ND, SEX ASSLT CHILD
6/28/2012	11/9/2022	DEL/INTENT DEL HAZ DRUG-COCAIN
7/13/2012	10/18/2039	ASSAULT 1;USE DDLY WEAP COMMIT
7/20/2012	7/7/2046	ASSLT 1SST, USE DDLY WEAP COMM
7/26/2012	7/29/2026	ROBBERY;USE FIREARM COMMIT FEL
8/17/2012	7/25/2031	TERROR THREATS,ASSAULT, USE FA
9/4/2012	10/25/2026	UNLWFL DISCH FA,ATT ASSLT PEAC
8/29/2012	1/9/2015	POSS DEAD WPN PROHBTD PERSON
9/5/2012	3/1/2018	POSS FIREARM BY PROHIBIT PERSN
9/17/2012	4/16/2018	POSSESS FIREAM PROHIBIT PERSON
9/12/2012	6/19/2017	POSS F/A PROHBTD PERSON,DUS
9/20/2012	4/19/2020	ROBBERY;POSSESS DEAD WEAP PROH
9/28/2012	3/29/2018	POSSES FIREARM/PROHIBITED PRSN
9/28/2012	7/18/2019	POSS DEAD WPN,ASS OFFICER,BURG

10/23/2012	4/18/2022	TAMPERING/HAB CRIM
11/6/2012	4/17/2018	POSS BASE COCAINE
12/17/2012	3/22/2016	POSS FIREARM PROHBTD PRSN X2
12/31/2012	10/3/2041	TAMPERING WITH WITNESS/TT
1/3/2013	10/13/2022	POSS CONTL SUBSTANCE-MORPHINE
1/16/2013	1/11/2018	DEL/INTENT DEL MARIJ/POSS METH
1/22/2013	3/15/2022	POSS C/S-COCAINE BASE
1/22/2013	1/7/2015	POSSESS FIREARM BY PRHBTD PRS
2/28/2013	6/10/2022	POSS CONTROL SUB/HAB CRIM-METH
3/12/2013	6/11/2017	POSS DEADLY WEAPON BY FELON
3/18/2013	5/20/2017	POSSESS DEADLY WEAPON BY FELON
3/15/2013	3/11/2016	POSS FIREARM,POSS C/S,THEFT
3/21/2013	7/7/2015	POSS DEADLY WEAPON PROHIB PER
3/25/2013	7/9/2018	POSS DEADLY WEAPON BY PROH PER
4/18/2013	9/24/2035	MANF/DIST/POSS W/I DEL-COC X 3
4/18/2013	1/12/2016	POSS DEADLY WEAPON BY PROH PER
4/23/2013	1/5/2018	POSS STOLEN GUN/POS DEADLY WEP
4/30/2013	8/24/2018	VIOLATE SEX OFF REG ACT 2ND
5/6/2013	11/13/2015	POSS DEADLY WEAPON BY PROH PER
5/9/2013	10/14/2022	POSS DEADLY WEAPON BY PROH PER
5/22/2013	1/11/2019	BURGLARY 2 CNTS/POSS FIREARM
5/28/2013	10/12/2018	POSS DEADLY WEAPON/POSS C/S
6/4/2013	10/28/2017	THREATS/USE FIREARM/DISTURBING
6/3/2013	11/20/2014	SEX OFF REG VIOL 2ND/THEFT
6/11/2013	12/22/2015	POSS DEADLY WEAPON BY PROH PER
6/13/2013	9/27/2024	ATT POSS C/S/THEFT BY TAKING
6/18/2013	1/27/2017	THEFT BY REC X 2/POSS WEAPON
6/21/2013	6/20/2017	POSS DEFACE/POSS GUN/DEAD WEAP
6/17/2013	3/26/2018	POSS DEADLY WEAPON BY PROH PER
6/28/2013	1/3/2015	VIOLATE SEX OFF ACT 2ND OFF
7/9/2013	5/27/2023	FORGERY 2ND DEG \$300-1000
7/25/2013	6/23/2018	THREATS/POSS FIREARM BY PROHIB
7/24/2013	4/26/2017	POSS DEADLY WEAP PROHIBT PRSN
8/2/2013	12/15/2019	ATT ROBBERY X2/USE OF WEAPON
8/2/2013	11/24/2016	POSS DEADLY WEAPON BY PROH PER
8/5/2013	3/26/2040	MANSLAUGHER/POSS WEAP/POSS GUN
7/24/2013	3/25/2018	POSS CONT SUB/POSS DEADLY WEAP
8/5/2013	8/5/2027	CONSPIRACY-THEFT BY TAKING
8/6/2013	8/3/2016	POSS DEADLY WEAPON BY PROH PER
8/7/2013	2/26/2018	POSS DEADLY WEAPON BY PROH PER
8/27/2013	2/12/2016	POSS DEADLY WEAPON BY PROH PER
8/28/2013	10/3/2032	BURGLARY 2 CNTS (HABITUAL X2)
9/12/2013	12/1/2022	POSSESS CONTROLLED SUB-COCAINE
9/10/2013	1/19/2016	POSS DEADLY WEAPON BY PROH PER

9/18/2013	11/30/2014	SEX OFF REG ACT VIOLATIONX 2
10/1/2013	4/12/2018	CRIM MISCHIEF/USE FIREARM-FEL
9/30/2013	9/27/2015	POSS DEADLY WEAPON BY PROH PER
10/7/2013	7/17/2018	POSS DEADLY WEAPON/TAMPERING
10/8/2013	9/10/2018	DOMESTIC/FAL IMP/OBSTR/DIS GUN
10/24/2013	2/22/2018	POSS FIREARM BY PROHIBITED PER
10/23/2013	7/7/2016	SEX ASSLT VOP/POSSESS WEAPON
11/4/2013	1/30/2015	VIOLATE SEX OFF ACT 2ND OFF
11/8/2013	4/19/2016	MANU/DIS/POSS W-I/POSS FIREARM
9/23/2013	8/9/2103	ROBBERY/WEAPONS/SEX ASSLT/BURL
11/19/2013	4/26/2017	ASSLT OFF/POSS W-I/DEAD WEAPON
12/6/2013	6/6/2018	POSS MARIJ/POSS W/INT-COCAINE
12/17/2013	11/28/2017	ATT POS WEAP/THEFT/POSS DEADLY
12/18/2013	2/27/2021	POSS FIREARM/DUI .15+ 2ND OFF
1/9/2014	1/7/2017	POSS FIREARM BY PROHIBITED PER
1/15/2014	7/23/2033	ROBBERY/TAMPER W/WITNESS X2
1/28/2014	8/18/2018	ASLT OFF/UFA TO CF/FLGHT AV AR
1/22/2014	1/15/2018	POS D/W PROH PER/POS W/I-MARIJ
1/23/2014	1/4/2019	FRAUDULENT INSURANCE ACT
2/4/2014	1/20/2016	MANUF/DIS/POS TO DIST-METH
2/12/2014	8/9/2016	MANUF/DIST/POSS W/I DEL COCAIN
2/5/2014	9/27/2018	POSS FIREARM PROHIBITED PERSON
2/20/2014	8/5/2018	DIST CONT SUB NEAR SCHOOL-1ST
2/18/2014	2/24/2018	MANUF/DIST/POSS W/I COCAINE X2
3/4/2014	8/6/2017	POSS DEADLY WEAP PROH PERSON
3/25/2014	7/16/2016	POSS FIREARM PROHIBITED PERSON
3/20/2014	5/26/2028	POSS WEAPON BY PROHIBITED PRSN
3/26/2014	3/24/2016	POSS DEADLY WEAPON BY PROH PER
4/8/2014	10/19/2017	POSS WEAPON/ATT ASSLT/POSS CS
5/1/1992	6/20/2018	ATP ROB/ATP BUR/ ESCP
2/6/2003		MRDR 2D/USE FA/ASLT 1ST
5/29/2002	3/29/2021	ASSAULT BY CONFINED PERSON H.C
2/1/2005	9/6/2014	POSSESS DEADLY WEAPON-HAB CRIM
4/18/2005	4/6/2019	BURGLARY
8/4/2006	10/24/2016	DELIVERY OF METHAMPHETAMINE
8/31/2006	6/27/2021	POSS COCAINE 28-139 GMS-H.C.
9/14/2006	4/5/2016	BURGLARY-HAB CRIM/POSS COCAINE
10/13/2006	11/19/2016	POSS AMPHET/POSS FA FELN-HABIT
6/5/2007	3/13/2017	POSS METH-HAB CRI/DISTURB PEAC
8/6/2007	6/17/2017	POSSESS FORGED INSTRUMENT H.C.
9/25/2007	1/5/2016	THEFT BY RECEIVING-HAB CRIMIN
1/23/2009	3/26/2018	THEFT BY RECVNG STOLN PROP-HC
11/24/2009	10/14/2014	POSSESS OF COCAINE 28-139 GRMS
12/17/2009	3/24/2015	POSSESS COCAINE 28-139 GRAMS

5/27/2010	12/16/2014	POSS DEADLY WEAPON PROHIB PERS
7/2/2010	11/14/2014	SEXUAL ASSAULT ON CHILD 3RD DG
8/3/2010	9/18/2018	ROBBERY
10/29/2010	1/12/2019	FELON IN POSS FA/TERR THREATS
12/17/2010	9/26/2017	ASLT 2ND DG/USE DEADLY WEAPON
12/21/2010	3/20/2017	FORGERY 2ND/POS METH 10-27 GMS
2/2/2011	6/10/2015	ROBBERY/USE DEADLY WEAPON/ROB
3/16/2011	11/15/2014	DIST COCAINE BASE NEAR SCHOOL
4/20/2011	6/8/2020	ASSAULT 2ND DG/USE DEADLY WEAP
5/31/2011	9/4/2015	POSS METHAMPHET 28-139 GRAMS
6/7/2011	4/20/2016	ROB-VOP/POS DDLY WPN PROHIB
6/21/2011	3/22/2016	ENTICEMENT/ELECTRONIC COMM DEV
8/19/2011	8/15/2014	POSS FIREARM PROHIBITED PERSON
8/19/2011	10/2/2015	POSS METHAMPHETAM 28-139 GRAMS
11/29/2011	12/1/2015	POS DDLY WPN/THRSTS/FLS IMPRIS
11/29/2011	9/25/2014	POS WPN PROHIB PERS/POS W-I DE
12/20/2011	7/24/2018	ATT ASSLT/POSS D/W PROHBT PRSN
1/3/2012	12/29/2014	POSSES FA BY PROHBITED PERSON
2/21/2012	12/4/2014	POSS D/W PROHBT PERSN/CRIM IMP
2/29/2012	5/2/2016	POSS FIREARM BY PROHBTEP PERSN
3/20/2012	3/16/2017	TT, ATT ASSLT, USE OF DEADLY
5/4/2012	11/22/2016	ROBBERY, USE OF DEADLY WEAPON
5/3/2012	9/13/2014	POSS DEADLY WPN BY PRHBTEP PRS
5/9/2012	6/24/2015	POSS DEADLY WPN/PROHBTEP PRSN
6/5/2012	2/15/2017	POSS CHILD PORN,POSS F/A PRHBT
6/8/2012	3/22/2016	POSS DEADLY WEAPN/PROHBTEP PRS
7/11/2012	10/11/2014	POSS DEADLY WEAP/PRHBTEP PRSN
9/17/2012	2/2/2017	SEX OFFENDER REG ACT VIO/SUB
11/9/2012	8/27/2015	POSS DEADLY WEAPON/PROHIT PER
11/14/2012	9/17/2015	POSS DEADLY WEAPON
11/21/2012	3/23/2017	POSS FA BY PROHB PERSON
11/27/2012	4/7/2016	POSS CONT SUBS/POSS FA PRH PRS
11/7/2012	5/13/2015	POSS DEADLY WEAP PROHBTEP PRSN
12/18/2012	9/26/2017	POSSES FIREARM BY PROHBTEP PRS
2/4/2013	12/12/2014	DUI 4TH OFFENSE
2/26/2013	9/19/2015	POSS FIREARM BY PROHBTEP PRSN
2/27/2013	9/21/2017	POSS DEADLY WEAPON PRHBTD PRSN
3/11/2013	4/9/2017	POSS DEADLY WEAPON BY FELON
3/13/2013	9/2/2018	POSSESS DEADLY WEAPON BY FELON
5/22/2014	6/1/2017	USE FIREARM COMMT FEL/MISCHIEF
3/25/2013	9/24/2016	POSS FIREARM/ASSAULT 3RD DEG
3/28/2013	3/25/2016	POSS DEADLY WEAPON BY PROH PER
4/10/2013	10/6/2015	POSS FIREARM/DEFACE FIREARM
4/5/2013	6/26/2017	DISTRIBUTE C/S NEAR SCHOOL

4/15/2013	1/30/2019	POSS W/I DELIVER C/S 2 CNTS
4/19/2013	10/18/2017	THEFT X 2/POSS DEADLY WEAPON
6/10/2013	7/27/2015	POSS DEADLY WEAPON BY PROH PER
6/20/2013	10/18/2015	POSSESS FIREARM BY PROH PERSON
6/25/2013	5/17/2018	POSS FIREARM BY PROHIB PERSON
8/20/2013	3/20/2016	POSS DEADLY WEAPON BY PROH PER
10/8/2013	11/24/2017	ACC-ROBBERY/THREATS/DEAD WEAPO
10/8/2013	10/25/2015	VIOLATE SEX OFFENDER ACT 2ND
10/16/2013	11/12/2017	POSS DEADLY WEAPON BY PROH PER
11/26/2013	11/21/2016	POSS DEADLY WEAPON BY PROH PER
12/17/2013	6/8/2018	DOM ASSLT/USE OF DEADLY WEAPON
12/20/2013	10/27/2014	VIOL SEX OFFENDER REG ACT-2ND
1/13/2014	10/14/2014	SEX OFFENDER ACT VIOLATION-2ND
1/17/2014	5/15/2019	MANU CS/POSS GUN/DELIVER CS
4/22/2014	3/14/2015	SEX OFFENDER REG ACT VIOL 2ND
12/3/1982		MURDER 1ST DEG /ESCAPE
9/26/1995	2/16/2040	ROBBERY-H.C./FA-H.C./ESCP
6/13/1996	5/21/2018	ASSLT-1STDEG(HB)/ASSLT-2DEG/HB
12/17/1997		POSS W/I C/S/USE WEAP/HC
9/22/1999	11/24/2133	SX ASLT 1ST DG/BRGLRY/RBRY/HC
11/7/2000	2/27/2050	ATT ROBBERY/USE FA/ATT MURDER
12/4/2000	2/11/2015	BURGLARY-HABITUAL CRIMINAL
12/8/2000	11/21/2023	POSS WPN/THRTS/ASLT/USE OF WPN
1/9/2002	4/30/2027	AT RBRY/ASLT/USE WPN/POSS C S
3/8/2002	11/19/2046	SEXUAL ASSAULT OF A CHILD
5/8/2002		MURDER 1ST/USE WPN/THRTS-H.C.
5/16/2003	8/18/2054	ROBBERY/USE WPN/KIDNAP-H.C.
7/21/2003	7/29/2027	BURGLARY-HABITUAL CRIMINAL
11/30/2004	6/6/2039	USE OF FA/POSS FA-FELON/THREAT
3/2/2005	5/21/2024	POSSESS W/I DELIVER COCAINE-HC
3/17/2005		TERRS THRTS/USE WPN /ASLT 2 DG
5/19/2005	3/28/2029	ROBBERY/USE DDLY WPN/ASSLT 2ND
7/6/2005	5/8/2094	SEX ASLT 1ST/USE WPN/ROBBERY
12/20/2005	5/22/2028	ASLT 2ND/USE WPN/ASLT OFCR
2/21/2006	10/16/2025	DISTRIBUTION METHAMPH-HAB CRIM
4/18/2006	9/3/2030	FELON IN POSS FIREARM/HABITUAL
5/2/2006	12/18/2026	ROBBERY/USE OF A FIREARM
6/13/2006	2/6/2019	POS FA-DRUG/POS FA/POS METH
7/13/2006	3/2/2016	ASLT CONF PRSN/SEX OF ACT VIOL
8/15/2006	5/27/2051	SEXUAL ASSAULT OF CHILD-SUBSEQ
8/31/2006		FORGERY 2ND DEGREE
8/31/2006	8/9/2020	ROBBERY-HABITUAL CRIMINAL
11/6/2006	12/27/2070	MURDER 2ND DG/DDLY WPN-HAB CRI
12/6/2006	10/30/2026	DEL CSMJ W-I 1000 FT SCHOOL-HC

12/19/2006	7/29/2026	POSS CHILD PORN-HABIT CRIMINAL
12/5/2006	8/21/2239	SEX ASLT 1/DDLY WPN/ROBB/BURGL
8/1/2007	6/29/2024	DELIVERY OF COCAINE-HAB CRIMIN
12/21/2007	5/28/2032	RECEIVE STOLEN PROP-HAB CRIMIN
3/7/2008	4/20/2036	CRIM POS FTD-H.C./CIRC FTD-H.C
3/10/2008	7/7/2077	POSS DEADLY WPN/ROBBERY-HAB CR
11/20/2007		TAMPER WITH WITNESS-HAB CRIMIN
6/3/2008	9/30/2044	BURGL-H.C./THEFT-H.C./BRGL TLS
4/24/2008	2/21/2035	SEX ASLT CHILD 1ST DG/INCEST
9/19/2008	9/18/2041	ASSAULT BY CONFINED PERSON-HC
12/11/2008	9/25/2041	THEFT-TAKING/TAMPERING EVIDENC
10/9/2008	3/19/2059	AT SEX ASLT/THEFT/LEAVE SCENE
3/12/2009	3/11/2029	SEX ASLT ON CHILD 1ST/AT SEX
5/19/2009	2/27/2023	FALSE IMPRISONMENT 1ST DG-H.C.
6/24/2009	12/20/2028	ASLT 2ND/ROB-H.C./BRGLRY/ASLT
6/30/2009	11/12/2028	ASLT 1ST DG-H.C./USE WPN-H.C.
6/17/2009	4/10/2027	ROBBERY/USE OF A DEADLY WEAPON
8/7/2009	6/19/2019	PUBLIC INDECENCY/SEX ASLT 3RD
9/11/2009	3/5/2032	SEX ASLT CHLD 1ST/SEX ASLT CHL
9/9/2009	3/5/2044	SEX ASLT CHILD 1ST-2ND/SEX ASS
10/23/2009	1/8/2041	SEXUAL ASSAULT ON CHILD 1ST DG
11/10/2009	3/7/2027	SEXUAL ASSAULT ON CHILD 1ST DG
12/15/2009	5/13/2043	SEX ASLT CHIL 1ST DG/SEX ASLT
1/19/2010	7/27/2031	USE OF FA/ROBBERY/POS OXYCOTIN
3/8/2010	3/3/2021	VIOLATION SEX OFFENDER REG ACT
5/26/2010	8/16/2019	UNLAWFUL/INTENTIONAL DSCHRG FA
3/30/2010	7/15/2029	THEFT RECVNG STOLEN PROP - H.C
4/7/2010	7/12/2016	DLVRY-INT DELIVER COC/POS METH
4/16/2010	5/10/2017	DIST HYDROCOD-SCHL/ATT BURGLRY
4/23/2010	8/17/2032	ASLT 2ND-H.C./USE DDLY WPN-H.C
5/13/2010	7/3/2057	SEX ASLT CH 1ST DG/POS VIS DEP
5/7/2010	1/18/2061	AT MURDER 2ND/POSS DDLY WEAPON
3/1/2010	12/7/2019	OPER MOT VEH AVOID ARREST-H.C.
6/28/2010	5/23/2092	DRV WHILE REVOKED FROM DUI/DUI
9/1/2010	10/11/2016	SEX OFFENDER REG ACT VIOL 2ND
9/22/2010	5/26/2037	AT MURDER 2ND DG/USE DDLY WEAP
10/13/2010	2/25/2040	ASSLT/USE F/A COM FEL/ROBBERY
10/29/2010	12/27/2030	ASSAULT 1ST DG/USE OF FIREARM
11/19/2010	5/25/2022	ROBBERY/USE OF DEADLY WEAPON
12/1/2010	6/2/2025	ROBBERY;/USE OF FIREARM
12/9/2010	9/2/2022	POSSESSION OF METH 10-27 GRAMS
12/17/2010	11/25/2036	MANSLAUGHTER/POSS FA-FELONY
12/17/2010	11/14/2022	AT ROBBERY/ROB/USE WPN/ASLT 1
1/26/2011	5/20/2028	USE OF FA/POSS DEFACED FIREARM

1/28/2011	12/24/2017	ATT SEX ASSLT/ATT POSS CH PORN
3/22/2011	8/11/2030	ASSAULT 1ST DG/USE DEADLY WEAP
1/26/2011	10/2/2020	BURGLARY-H.C./TAMPER/DOM ASLT
4/13/2011	12/15/2030	ROBBERY-HABITUAL CRIMIN/USE FA
4/18/2011	11/5/2072	ASLT 1ST/USE DDLY WPN/ASLT 2ND
4/26/2011	7/7/2023	ASLT 1ST/AID DSCHR FA/POS STOL
5/4/2011	12/10/2066	SEX ASLT CHILD 1ST/VIS DEPICT
5/25/2011	1/29/2023	SEX ASLT ON CHILD 3RD DG 2ND
5/24/2011	6/30/2032	USE DDLY WPN/AT ASLT/DSCHRG FA
6/27/2011	2/26/2024	POSSESS OF METHAMPHET-HAB CRIM
7/12/2011	5/13/2043	SEXUAL ASSAULT ON CHILD 1ST DG
7/19/2011	7/23/2050	SEX ASLT CH 1ST DG/AT SEX ASLT
7/25/2011	10/22/2017	POSS FIREARM PROHIBITED PERSON
7/28/2011	12/21/2022	THEFT BY RCVG STOLEN PROP-H.C.
7/28/2011	4/8/2063	DISCHRG FA/USE DDLY WPN/ASLT 2
8/1/2011	3/16/2023	BURGLARY/ATT BURGLARY
8/5/2011	8/19/2017	AT ASLT 2ND DG/USE OF FIREARM
8/9/2011	12/8/2026	POSS DDLY WPN/THEFT/AVOID ARR
9/9/2011	11/30/2082	SEX ASLT 1ST DG/USE DDLY WEAPN
10/18/2011	5/26/2026	DUI 4TH/FLS IMPRIS/SEX ASLT-HC
10/18/2011	1/19/2031	POSS DEADLY WPN PROHIB PERS-HC
10/26/2011	6/17/2034	AT ROB/USE FA/ROBBERY/USE FA
10/25/2011	10/17/2038	SEX ASLT CHILD 1ST DG/IMPERSON
11/4/2011	2/10/2046	ASLT 2ND/ROBBERY/USE DDLY WPN
11/4/2011	6/25/2025	ROBBERY/USE WPN/POSS DDLY WPN
11/28/2011	6/13/2023	POSS DEADLY WEAP PROHIB PERSON
12/23/2011	10/5/2038	SEXUAL ASSAULT CHILD 1ST DEG
1/3/2012	5/30/2039	SEXUAL ASSAULT OF CHILD 1ST DG
4/30/2012	3/29/2021	THEFT BY UNLAWFUL TAKING
2/3/2012	1/18/2039	SEXUAL ASSAULT CHILD, INCEST
2/13/2012	8/15/2023	ROBBERY, USE DEADLY WPN COMMIT
2/15/2012	9/17/2022	UNLAWFUL DISCHARGE FIREARM
9/25/2013	6/17/2029	UNLICENSED DEALER-MOTOR VEHICL
3/14/2012	1/9/2094	SEXUAL ASSAULT/CHILD 1ST DEGRE
3/27/2012	9/3/2075	MURDER, USE DEADLY WEAPON, CON
4/9/2012	10/29/2043	MURDER 2ND, USE GUN COMMIT FEL
4/9/2012	5/26/2025	ROBBERY, DISCH F/A BUILD-VEH
4/4/2012	6/22/2021	ASSAULT 2ND DEG/POSS DW PROHBT
4/11/2012	11/12/2025	ATT ASSAULT, USE D/W COM FELON
4/11/2012	12/27/2038	1ST DEG SEXUAL ASSLT OF CHILD
4/11/2012	9/10/2059	1ST SEXL ASSLT CHILD, VISL DEP
4/16/2012		MURDER 1ST DEG/USE FIREARM COM
4/16/2012	12/30/2032	DISCH F/A BUILD,HOUSE;USE DDLY
4/23/2012	5/1/2033	SEXUAL ASSAULT/CHILD-1ST DEG

4/23/2012	5/15/2053	SEXUAL ASSAULT CHILD/CHILD ABU
4/19/2012	3/24/2021	ASSAULT ON OFFICER-3RD DEG/HAB
4/26/2012	3/11/2028	ATT POSS FIREARM PRHBTD PRSN
5/2/2012	3/28/2064	SEX ASSLT CHILD 1ST/VISL DEPIC
5/21/2012	3/16/2020	POS METHAMPHETAMINE 28-139 GRM
5/4/2012	3/22/2058	ROBBERY,USE DEADLY WPN, CONSPI
5/23/2012	9/17/2056	USE DEADLY WPN COM FEL, ROBBER
6/5/2012	11/13/2038	OPER M/V AVD ARRST,BURG, THEFT
6/5/2012	8/30/2063	MURDER 2ND DEG, USE DDLY WPN
6/6/2012	9/25/2023	USE DDLY WPN (GUN),TT, ROBBERY
6/11/2012	4/25/2022	ASSAULT OFFICER 3RD DEGREE
6/25/2012	1/4/2068	ASSLT,USE F/A COMMIT FEL, ARSN
6/18/2012	9/2/2097	POSS DEADLY WEAP/PROHBTD PRSN
6/18/2012	6/4/2033	ATT ROBBERY/POSS DEADLY WEAP
6/26/2012	6/1/2031	POSS W/I DEL METH,POSS D/W
7/25/2012	5/1/2026	ROBBERY;POSS F/A PROHBTD PRSN
8/3/2012	10/27/2058	MURDER 2ND DEG;USE WEAP COMMIT
8/21/2012	6/6/2034	SEXUAL ASSAULT/CHILD 1ST DEGRE
8/22/2012	7/11/2067	SEXUAL ASSAULT CHILD 1ST (X2)
9/11/2012	11/11/2034	FORGERY X3, THEFT DECEPTION
9/7/2012	3/2/2030	USE DEAD WPN COM FEL/ROBBERY
9/24/2012	6/14/2029	ASSLT 1ST,USE FIREARM COMMIT
9/27/2012	5/12/2034	SEXUAL ASSLT/CHILD 1ST & 3RD
10/1/2012	2/14/2022	DEL/INTENT DEL C/S-MARIJUANA
10/5/2012	1/5/2020	POSS WEAP PROHBT PRSN;USE WEAP
10/15/2012	8/12/2036	SEXUAL ASSAULT/CHILD 1ST DEGRE
10/18/2012	5/18/2072	SEXL ASSLT CHILD 1ST DEGREE X3
11/16/2012		MURDER 1ST DEG/USE DEAD WEAPON
11/20/2012	9/19/2031	5 CTS. ROBBERY/1 CT USE WPN
11/30/2012	4/22/2027	BURG/POSS BURG TOOLS/HABITUAL
12/11/2012	3/25/2026	MANSLAUGHTER,USE DEAD WPN,POSS
12/14/2012		MURDER 1ST,USE DEAD WEAP COMMT
12/17/2012		MURDER 1ST,USE DEADLY WEAP,POS
12/21/2012	3/3/2032	MAN/POSS W/I COCAINE/USE DEAD
1/2/2013	7/6/2042	SEXUAL ASSAULT CHILD 1ST DEGRE
1/11/2013	6/28/2044	VISUAL DEPICT/SEX,SEX ASSLT
1/15/2013	12/11/2019	POSS DEADLY WEAP/PRHBTD PRSN
1/22/2013	2/6/2030	SEXUAL ASSLT CHILD 1ST DEGREE
1/25/2013	7/7/2032	SEX ASSLT CHILD 1 & 3/POSS C P
1/29/2013	3/3/2039	SEXUAL ASSLT/CHLD 3RD DEG X2
1/31/2013	7/13/2027	ATT ASSLT,USE FA COMMIT FELONY
1/24/2013	8/18/2023	TERR THRTS,USE GUN COMMIT FELO
1/25/2013		MURDER 1,USE DEAD WPN COMM FEL
1/29/2013	3/1/2039	MURDER 2ND DEG/USE DEAD WPN

2/7/2013	9/11/2026	CHILD ENTICEMENT-ELECT COM DEV
2/12/2013	4/5/2047	USE F/A COMMIT FEL/MURDER 2ND
2/25/2013	9/28/2020	BURG/POSS STLN F/A/DEADLY WPN
2/25/2013	2/9/2029	POSS METH 28-139 GRAMS
2/22/2013	2/4/2043	SEX ASSLT ON CHILD 1ST DEGREE
3/4/2013	2/18/2029	DEL/INTENT DEL C/S-METH
3/1/2013	12/19/2018	POSS DEFACED FIREARM/POSS DEAD
2/28/2013	10/4/2034	SEXUAL ASSAULT CHILD 1ST DEG
3/12/2013	6/24/2072	SEXUAL ASSAULT CHILD X 5
3/13/2013	9/15/2030	THEFT X2/BURGLARY X2/POS TOOLS
3/15/2013	10/29/2024	ROBBERY X4/USE OF DEADLY WEAP
3/15/2013	10/15/2058	TERROR THRTS X5/USE FIREARM X6
3/19/2013	11/1/2058	ATT SEX ASSLT CHILD X2/VISUAL
4/17/2013	3/23/2043	SEXUAL ASSAULT/CHILD 1ST DEG
4/12/2013	2/15/2040	SEXUAL ASSAULT/CHILD 3RD DEG
4/17/2013	8/6/2019	MANU/DIST/POSS W/I (GUN)/IMPER
4/26/2013	3/11/2019	POSS DEADLY WEAPON BY PROH PER
4/30/2013	6/30/2022	THEFT BY RECEIVING OVER \$1500
4/30/2013	8/22/2036	MANSLAUGHTER/USE DEADLY WEAPON
5/9/2013	4/24/2021	DEL/INTENT DEL X2/POSS COCAINE
5/17/2013	4/5/2045	SEX ASSAULT/CHILD 1ST DEGREE
5/20/2013	7/15/2034	SEX ASSAULT/CHILD 3RD DEG 2ND
5/28/2013	9/26/2027	ROBBERY/THREATS/ACCESS/WEAPON
6/3/2013	11/11/2017	POSS FIREARM BY PROHIBITED PER
6/5/2013	4/30/2026	OPER MV/POSS WEAP/THEFT/ASSLT
6/12/2013	10/24/2027	OPERATE MV TO AVOID ARREST X 2
6/26/2013	9/5/2021	SEX ASSLT-COMM DEV/CHILD ABUSE
6/26/2013	5/8/2047	SEXUAL ASSAULT CHILD 1ST DEG
6/26/2013	2/11/2025	ATT ROBBERY X4/USE DEADLY WEAP
7/1/2013	1/17/2043	ASSAULT/USE FIREARM COMMIT FEL
7/1/2013	1/26/2016	VIOLATE SEX OFF ACT 2ND OFF
7/3/2013	11/28/2036	SEX ASSLT X3/CHILD ABUSE X2
7/16/2013	3/25/2036	ROBBERY/ASSAULT/WEAPON X 3
7/24/2013		MURDER 1ST,USE DEADLY WEAP
8/2/2013	1/11/2032	ROBBERY X2/USE WEAP/POSS WEAP
7/30/2013	11/18/2031	POSS FIREARM PRHBTD PRSN/ASSLT
8/9/2013	8/17/2024	VISUAL DEPCT SEX EXPLIC CONDUCT
8/13/2013	2/18/2037	MULTIPLE OFFENSES
8/8/2013	4/19/2034	ATT ROBBERY/POSS WEAP PROH PER
8/19/2013	2/4/2028	POSSESS C/S-COCAINE (HABITUAL)
8/16/2013	8/26/2021	POSS FIREARM/POSS STOL FIREARM
9/5/2013	3/20/2022	VIS DEPICT SEX EXPLIC CONDUCT
9/10/2013	8/2/2025	ROBBERY/USE OF FIREARM-FELONY
8/29/2013		MURDER/USE WEAPON X2/ASSAULT

9/4/2013		MURDER/USE WEAPON/POSS WEAPON
9/17/2013	10/11/2020	ATT ASSLT/POSS WEAP/DIST COCAI
9/23/2013	4/26/2033	POSS GUN/POSS-REC STOLEN GUN
9/23/2013	9/28/2057	SEX ASSAULT/CHILD 1ST DEG X 2
9/30/2013	12/30/2015	SEX OFF VIOLATION ACT 2ND OFF
10/7/2013	1/21/2026	THEFT BY TAKING X 2-HABITUAL
10/3/2013	6/19/2051	ASSAULT/USE WEAPON/OPERATE MV
10/15/2013	4/25/2045	ATT ASSLT OFF X2/USE FIREARM
10/1/2013	1/24/2023	WEAPON/THEFT X2/BURG/STOLN GUN
10/23/2013	7/14/2022	THREATS/DOM ASSLT/USE FIREARM
10/28/2013	6/8/2021	POSS DEFACED GUN/POSS WEAPON
11/7/2013	3/1/2076	ASSAULT X4/USE DEADLY WEAP X2
11/5/2013	9/23/2023	USE FIREARM/DISCHARGE FIREARM
11/6/2013	10/2/2027	POSS WEAP/ROBBERY X2/USE WEAP
11/21/2013	3/15/2030	POSS FIREARM BY PROHIBITED PER
12/5/2013	7/27/2055	SEX ASSAULT/CHILD 1ST AND 3RD
12/6/2013	5/15/2030	POSS FIREARM X 3/STALKING
12/23/2013	5/10/2036	SEX ASSAULT/CHILD 1ST DEGREE
1/14/2014	10/8/2050	MURDER 2ND DEG/USE OF WEAPON
1/28/2014	8/9/2053	THIRD DEG SA CHLD SUB OFFEN X2
1/28/2014		1ST DEG MURDER X2/UFA/POS FA
1/28/2014	10/12/2057	MURDER 2ND/USE FIREARM COM FEL
1/27/2014	10/7/2050	SEXUAL ASSLT CHILD-1ST DEGREE
4/17/2014	7/28/2023	FORGERY 2ND DEGREE (HABITUAL)
6/22/2006	5/24/2015	BURGLARY-HABITUAL CRIMINAL
2/11/2011	5/6/2016	ATT ROBBERY/USE DEADLY WEAPON
6/26/2012	12/10/2016	ROBBERY,USE DD WPN COM FEL-GUN
11/14/2012	8/9/2015	POSS DEADLY WEAPON/PROHIB PERS

INMATE NAME /# _____

OLD TRD _____

SENTENCE BEGIN DATE _____

MANDATORY MINIMUM ADD _____

JAIL CREDIT SUBTRACT _____

_____ = MM Term

½ REMAINING MAX SENT ADD _____ = GT allowed

NEW TRD _____

DEAD TIME ADD _____

LOSS GT ADD _____

RESTORATION SUBTRACT _____

LB 191 SUBTRACT _____

PAROLE GT SUBTRACT _____

FINAL TRD _____

(CHANGE GT ALLOWED IN CTS)

COMPLETE BY _____

CHECKED BY _____

From: Microsoft Outlook on behalf of Wellman, Mary
Sent: Wednesday, October 30, 2013 3:42 PM
To: Henrie, Brad
Subject: RE:
Attachments: R.L.

Sender: Mary.Wellman@nebraska.gov

Subject: RE

Message-Id: <BAD7936AA16BB84FBE48CCA53A056DF53D743F15@STNEEX10MB02.stone.ne.gov>

To: brad.henrie@nebraska.gov

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From: Wellman, Mary
Sent: Wednesday, October 30, 2013 3:42 PM
To: Henrie, Brad
Subject: RE:

"Due to an audit of your sentence, the DUI &/or refuse to submit charge carries a mandatory minimum sentence that the Nebraska Department of Correctional Services is required by statute to apply. The mandatory minimum has an effect on the Parole Eligibility Date. If you have further questions, please address your concerns to the Records Administrator at the Central Office."

That's the official wording. I don't know exactly what happened, and they don't tell me either. I've heard something about the Nebraska Supreme Court making a ruling that required corrections to go back in and refigure the PED for very dui/refuse to submit inmate. This did not affect anyone's TRD. As you see, Mickie Baum at central office will also answer any questions, and she knows much more than I do. Thanks. Mary

Mary Wellman, Records Office
Community Corrections Center-Lincoln
(402) 471-6253

From: Henrie, Brad
Sent: Wednesday, October 30, 2013 2:30 PM
To: Wellman, Mary
Subject: RE:

I am scheduled to meet with him this afternoon and I am sure he will have questions. Is there someone that he can contact to give him an explanation or is just notifying explanation enough?

Will this affect his TRD as well?

Thanks!

Brad

Brad Henrie
Senior Parole Officer
Hastings Adult Parole, LRO
2727 West 2nd Street Suite 224
Landmark Center
Hastings, NE 68901

E-Mail brad.henrie@nebraska.gov
Cell
Fax

From: Wellman, Mary
Sent: Wednesday, October 30, 2013 9:00 AM
To: Henrie, Brad
Subject:

I got a new dream sheet for him. His PED has changed, it's three months later (6/21/13) because of his mandatory minimum. Could you let him know? I put it in his RFP mail here, along with the explanation. Sorry about the bad news. Mary

Mary Wellman, Records Office
Community Corrections Center-Lincoln
(402) 471-6253

From: Microsoft Outlook on behalf of Kristalyn, Kendra
Sent: Thursday, November 14, 2013 3:50 PM
To: Baum, Mickle
Subject: Man Min / Jail Credit Help
Attachments: Man Min / Jail Credit Help

Sender: kendra.kristalyn@nebraska.gov
Subject: Man Min / Jail Credit Help
Message-Id: <861FOA4COEDEF014A8D4F24D219C8B7CB450F1699@STNEEX10MB01.stone.ne.gov>
To: Mickle.Baum@nebraska.gov

From: Kristalyn, Kendra
Sent: Thursday, November 14, 2013 3:50 PM
To: Baum, Mickie
Subject: Man Min / Jail Credit Help!
Attachments: NCCW New Commits~~f~~ df
Importance: High

Hey Mickie,

Here is the info that I have on _____ (sorry it is in the middle of the PDF) A gentleman named Casey Quinn is apparently representing Inmate _____ and is saying that I interpreted her jail credit wrong. I remember Angela calling me back after checking my calculation and explaining that _____ would not qualify for jail credit in this case, and that she had just talked to you about a similar situation the day before, but for the life of me I can't remember why _____ didn't get the credit. Mr. Quinn is also questioning me about why I applied a mandatory minimum to her sentence. _____ explained that it was a 4th offense DUI and a Class 3A felony, but he didn't think that I automatically had to apply the mandatory minimum and that I shouldn't have. He kept trying to explain that since the judge had possibly considered her for probation that that meant I shouldn't have applied the mandatory minimum. My apologies, but my head was swimming and I referred him to you.

Kendra Kristalyn
 NCCW Records Manager
 1107 Recharge Rd.
 York, NE 68467
 p. (402) 362-3317 ext. 218
 f. (402) 362-3892

From: Kristalyn, Kendra
Sent: Wednesday, November 06, 2013 4:09 PM
To: Baum, Mickie; Shurter, Ginger
Subject: NCCW New Commits~~f~~

Good afternoon Mickie and Ginger,

Attached for your use are NCCW New Commits~~f~~ _____ they have all been entered into CTS. I will be out tomorrow morning until noon, but then I will be back in the office if you have any questions.

For Inmate _____ her first name is spelled two different ways on her commitment. Do I need to ask for an amended sentencing order? When you look her up in NCJIS there are only entries under _____

For Inmate _____ I ran my calculations by Angela first. Mickie, she explained to me that even though _____ was sentenced by the same judge, same day, etc. that she will not get the 145 days of jail credit towards her sentence.

For Inmate _____ Angela told me to call Douglas County and get her booking date, etc. so she should be entered correctly.

Please let me know if you have any questions.

Thanks!

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Kendra Kristalyn
NCCW Records Manager

1107 Recharge Rd.

York, NE 68467

p. (402) 362-3317 ext. 218

f. (402) 362-3892

1yr 8m - 2yr
- 1yr - 1yr 45 days Jc
2yr 8m - 3yr

2013-10-24
- 1d
2013-10-23
+ 2yr
2015-10-23
- 1yr
2014-10-23
- 2d
2014-10-21

2013-10-24
- 1d
2013-10-23
+ 1yr 8m
2015-10-23
- 2014 10m
2014-8-23
- 2d
2014-8-21

2013-10-23
- 1d
2013-10-24
+ 3yr
2016-10-24
- 1yr 6m
2015-4-24
- 1m 15d
2015-3-9

2013-10-25
- 1d
2013-10-24
+ 2yr 8m
2016-6-24
- 1yr 4m
2015-2-24
- 1m 15d
2015-1-9

TRD 10-21-14

PEO 8-21-14

TRD 3-9-15

PEO 1-9-15

~~2013-9-11
- 1d
2013-9-10
+ 2yr
2015-9-10
- 1yr
2014-9-10
TRD 9-10-14~~

~~2013-9-11
- 1d
2013-9-10
+ 1yr 8m
2015-7-10
- 2014 10m
2014-7-10
PEO 7-10-14~~

2013-10-31
- 1d
2013-10-30
+ 3yr
2016-10-30
- 1yr 6m
2015-4-30
2014 4m 15d
2014-12-17
TRD 12-17-14

2013-10-31
- 1d
2013-10-30
+ 1yr 8m
2015-10-30
- 2014 10m
2014-8-30
- 4m 15d
2014-4-17
PEO 4-17-14

2013-10-3
- 1d
2013-10-30
- 4yr
2017-10-30
- 2yr
2015-10-30
7m 9d
2015-3-21
TRD 3-21-15

2013-10-3
- 1d
2013-10-30
+ 2yr
2015-10-30
- 1yr
2014-10-30
- 7m 9d
2014-3-21
PEO 3-21-14

2013-7-15
- 1d
2013-7-14
+ 2yr
2015-7-14
- 1yr
2014-7-14
TRD 7-14-14

2013-7-15
- 1d
2013-7-14
+ 1yr 8m
2015-5-14
- 2014 10m
2014-5-14
PEO 5-14-14

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From: Microsoft Outlook on behalf of Granholm, Val
Sent: Tuesday, November 19, 2013 9:47 AM
To: Fleischli, Scott
Subject: FW: DUI mandatory minimums
Attachments: FW: DUI mandatory minimums

Sender: Val.Granholm@nebraska.gov
Subject: FW: DUI mandatory minimums
Message-Id: <4229FD55BDD49D468D53A612001489B73FC7E92D@STNEEX10MB01.stone.ne.gov>
To: Scott.Fleischli@nebraska.gov

From: Granholm, Val
Sent: Tuesday, November 19, 2013 9:47 AM
To: Fleischli, Scott
Subject: FW: DUI mandatory minimums
Attachments: DUI IIR reply 1st.docx; LB 667 and LB 675 DUI MM.docx

For your reading pleasure

From: Baum, Mickie
Sent: Tuesday, November 19, 2013 9:07 AM
To: Granholm, Val
Subject: RE: DUI mandatory minimums

Val,
You can use these two replies. Thanks

Mickie Baum
Corrections Records Manager II
NDCS Central Records/Special Services
402-479-5705

Mickie.Baum@Nebraska.Gov

The information contained in the e-mail message is intended for the confidential use of the recipients named above. If the reader or this message is not the intended recipient, you are hereby notified that you have received this document in error, and any review, dissemination, distribution, or copying of this is strictly prohibited.

From: Granholm, Val
Sent: Monday, November 18, 2013 2:41 PM
To: Baum, Mickie
Subject: DUI mandatory minimums

Hi Mickie,
So I am going through all of the kites that have been sitting here since October and as you can probably guess, I have a lot of upset inmates. Do you or was there ever a memo drafted, to explain why all of these PED and TRD's were changed. Dream sheets were sent out as you were changing them with no explanation.
Thanks Val

Due to an audit of your sentence, the DUI &/or refuse to submit charge carries a mandatory minimum sentence that the Nebraska Department of Correctional Services is required by statute to apply. The mandatory minimum has an effect on the Parole Eligibility Date. If you have further questions, please address your concerns to the Records Administrator at the Central Office.

LB 667 and LB 675 – 2011

Under these laws under 60-6,196.03 provides –

Two prior convictions with a Higher Alcohol level – Class IIIA Felony and the “court shall also sentence such person to serve at least one hundred eighty days imprisonment in the city or county jail or an adult correctional facility.”

Per NDCS legal – “at least” shall mean mandatory minimum

Three prior convictions – Class IIIA Felony and the “court shall also sentence such person to serve at least one hundred eighty days imprisonment in the city or county jail or an adult correctional facility.”

Per NDCS legal – “at least” shall mean mandatory minimum

23A

From: Microsoft Outlook on behalf of Wayne, Larry
Sent: Friday, November 22, 2013 10:12 AM
To: Morello, Pamela
Cc: Poppert, Kyle
Subject: FW:
Attachments: FW:

Sender: Larry.Wayne@nebraska.gov

Subject:

Message-Id: <54FC14CD05BBC5409F7D44584118DB5D3D930042@STNEEX10M802.stone.ne.gov>

To: Pamela.Morello@nebraska.gov

Cc: Kyle.Poppert@nebraska.gov

From: Wayne, Larry
Sent: Friday, November 22, 2013 10:12 AM
To: Morello, Pamela
Cc: Poppert, Kyle
Subject: FW

Mo; this is FYI only. Not sure how the miscalculation occurred, and my interest in copying you on this is that you'd know and to advise we have processes for catching it, but obviously don't like having to bring someone back off parole. Also, if in case you hear any complaints from the family you'll know what it's about and what we've done on this end to address it. Kyle informs me your records person is quite competent, so this is a heads up for you and/or them.

From: Fabian, Edward
Sent: Friday, November 22, 2013 9:42 AM
To: Poppert, Kyle; Wayne, Larry; Gibson-Beltz, Cathy; West, Charles; Hansen, Anne
Cc: Granholm, Val; Leonard, Linda; Langan, Todd; McClymont, Phillip; Sargent, Kristie; Thielen, Mark
Subject: RE:

Kyle,
 CCC-O has a bed. I suggest _____ parole officer contact him and give him a directive of what time he needs to report here and then let us know when we should expect him. Once _____ arrives we will re-classify him to community custody. I am copying CCC-O staff on this so everyone is aware of what's going on.
 Ed

From: Poppert, Kyle
Sent: Friday, November 22, 2013 08:28
To: Wayne, Larry; Gibson-Beltz, Cathy; West, Charles; Hansen, Anne; Fabian, Edward
Subject:

_____ was paroled from WEC on November 10, 2013. He is serving a sentence for 3rd offense aggravated DUI. A review was conducted regarding his sentence due to the interpretation of "at least" to be a mandatory minimum term. WEC staff reviewed the sentence and did not catch it as a mandatory minimum term. Mickie Baum was reviewing the facilities calculations regarding the new mandatory minimum terms and determined _____ will not be eligible for parole until after his December 10, 2013 discharge date.

He is not eligible for parole. Therefore, he needs to be taken into custody and returned to a DCS facility.

I suggest we place him at CCC-O to mitigate this situation. He sentence will be entered into CTS on Monday when Mickie returns.

If you have any questions, please call.
 Kyle

Kyle J. Poppert, Administrator
 Nebraska Department of Correctional Services
 Classification, Inmate Records, Warrants & Extraditions
 Phone: (402) 479-5750
 Cell:
 Fax: (402) 742-2349
Kyle.Poppert@nebraska.gov

236 *Change is inevitable, growth is optional.*

From: Microsoft Outlook on behalf of Wayne, Larry
Sent: Saturday, November 23, 2013 10:07 AM
To: Hansen, Anne
Cc: Poppert, Kyle; Gibson-Beltz, Cathy; West, Charles; Fabian, Edward
Subject: Re:
Attachments: Re: _____

Sender: Larry.Wayne@nebraska.gov

Subject: Re: _____

Message-Id: <iccgvfptpxkij5ihi76ibtg0.1385222838409@email.android.com>

To: Anne.Hansen@nebraska.gov

Cc: Kyle.Poppert@nebraska.gov

Cc: Cathy.Gibson-Beltz@nebraska.gov

Cc: Charles.West@nebraska.gov

Cc: Edward.Fabian@nebraska.gov

From: Wayne, Larry
Sent: Saturday, November 23, 2013 10:07 AM
To: Hansen, Anne
Cc: Poppert, Kyle; Gibson-Beltz, Cathy; West, Charles; Fabian, Edward
Subject: Re _____

thanks Anne, nice work everybody. Hopefully we won't have to go through this too often.

Sent from my Verizon Wireless 4G LTE DROID

"Hansen, Anne" <Anne.Hansen@nebraska.gov> wrote:

It took a little bit to get him picked up, but he is now at CCO.

Anne Hansen
Assistant Adult Parole Administrator
402-479-5968
Anne.hansen@nebraska.gov

From: Poppert, Kyle
Sent: Friday, November 22, 2013 8:29 AM
To: Wayne, Larry; Gibson-Beltz, Cathy; West, Charles; Hansen, Anne; Fabian, Edward
Subject:

_____ was paroled from WEC on November 10, 2013. He is serving a sentence for 3rd offense aggravated DUI. A review was conducted regarding his sentence due to the interpretation of "at least" to be a mandatory minimum term. WEC staff reviewed the sentence and did not catch it as a mandatory minimum term. Mickie Baum was reviewing the facilities calculations regarding the new mandatory minimum terms and determine _____ will not be eligible for parole until after his December 10, 2013 discharge date.

He is not eligible for parole. Therefore, he needs to be taken into custody and returned to a DCS facility.

I suggest we place him at CCC-O to mitigate this situation. He sentence will be entered into CTS on Monday when Mickie returns.

If you have any questions, please call.
Kyle

Kyle J. Poppert, Administrator
Nebraska Department of Correctional Services
Classification, Inmate Records, Warrants & Extraditions
Phone: (402) 479-5750
Cell: /
Fax: (402) 742-2349
Kyle.Poppert@nebraska.gov

Change is Inevitable, growth is optional.

From: Microsoft Outlook on behalf of Poppert, Kyle
Sent: Sunday, November 24, 2013 2:36 PM
To: Hansen, Anne; Wayne, Larry; Gibson-Beltz, Cathy; West, Charles; Fabian, Edward
Subject: RE: _____
Attachments: RE: _____

Sender: Kyle.Poppert@nebraska.gov

Subject: RE

Message-Id: <840618D94EF64BBCE765BD7E9EBD1F3FE4004D@STNEEX10MB02.stone.ne.gov>

To: Anne.Hansen@nebraska.gov

To: Larry.Wayne@nebraska.gov

To: Cathy.Gibson-Beltz@nebraska.gov

To: Charles.West@nebraska.gov

To: Edward.Fabian@nebraska.gov

From: Poppert, Kyle
Sent: Sunday, November 24, 2013 2:36 PM
To: Hansen, Anne; Wayne, Larry; Gibson-Beltz, Cathy; West, Charles; Fabian, Edward
Subject: RE: _____

FYI

_____ was assigned to Schnitzer for RFP investigation on 10-18-2013. I never received a reply. The parole address is the same address as he submitted for RFP.

He is approved through the parole board and classification for RFP. The Board stipulated CAM if he was to be released on RFP.

He could return to the address on RFP. I would need a PO to approve the residence and a warden's signature.
Kyle

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Change is inevitable, growth is optional.

From: Hansen, Anne
Sent: Friday, November 22, 2013 3:30 PM
To: Poppert, Kyle; Wayne, Larry; Gibson-Beltz, Cathy; West, Charles; Fabian, Edward
Subject: RE: _____

It took a little bit to get him picked up, but he is now at CCO.

Anne Hansen
Assistant Adult Parole Administrator
402-479-5968
Anne.hansen@nebraska.gov

From: Poppert, Kyle
Sent: Friday, November 22, 2013 8:29 AM
To: Wayne, Larry; Gibson-Beltz, Cathy; West, Charles; Hansen, Anne; Fabian, Edward
Subject: _____

_____ was paroled from WEC on November 10, 2013. He is serving a sentence for 3rd offense aggravated DUI. A review was conducted regarding his sentence due to the interpretation of "at least" to be a mandatory minimum term. WEC staff reviewed the sentence and did not catch it as a mandatory minimum term. Mickle Baum was reviewing the facilities calculations regarding the new mandatory minimum terms and determined _____ will not be eligible for parole until after his December 10, 2013 discharge date.

He is not eligible for parole. Therefore, he needs to be taken into custody and returned to a DCS facility.

I suggest we place him at CCC-O to mitigate this situation. He sentence will be entered into CTS on Monday when Mickie returns.

If you have any questions, please call.
Kyle

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Kyle.Poppert@nebraska.gov

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From: Microsoft Outlook on behalf of Poppert, Kyle
Sent: Tuesday, December 24, 2013 12:29 PM
To: Davis, Tom A; Baum, Mickie
Subject: RE: Inmate [redacted] request sent Records in Lincoln not returned since 11/13.
Attachments: RE: Inmate [redacted] request sent Records in Lincoln not returned since 11/13.

Sender: Kyle.Poppert@nebraska.gov
Subject: RE: Inmate [redacted] request sent Records in Lincoln not returned since 11/13.
Message-Id: <84061BD94EF64BBCE765BD7E9EBD1F3FE69258@STNEEX10MB02.stone.ne.gov>
To: Tom.A.Davis@nebraska.gov
To: Mickie.Baum@nebraska.gov

From: Poppert, Kyle
Sent: Tuesday, December 24, 2013 12:29 PM
To: Davis, Tom A; Baum, Mickie
Subject: RE: Inmate [REDACTED] request sent Records in Lincoln not returned since 11/13.

He was sentenced to a class 3A felony. Based upon a review of his sentence, the language in the statute which reads "at least" is determined to be a mandatory minimum term by our legal department. State statute also says no credit shall be given toward parole until after the mandatory minimum term is served. Therefore, his PED has been recalculated and is now 1-27-2017.

Kyle

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Phone: (402) 479-5750
Cell
Fax: (402) 742-2349
Kyle.Poppert@nebraska.gov

Change is inevitable, growth is optional.

-----Original Message-----

From: Davis, Tom A
Sent: Tuesday, December 24, 2013 12:21 PM
To: Poppert, Kyle
Cc: Baum, Mickie
Subject: Inmate [REDACTED] request sent Records in Lincoln not returned since 11/13.

Read attached and reply please. [REDACTED] submitted a Step-One Grievance.
Thanks

Tom A. Davis
J3 Unit Manager
Omaha Correctional Center
(402) 595-3963, Extension 522-7048
tom.a.davis@nebraska.gov

From: dcs.copiers@nebraska.gov [dcs.copiers@nebraska.gov]
Sent: Tuesday, December 24, 2013 7:29 AM
To: Davis, Tom A
Subject: Message from "RNP1E8B73"

This E-mail was sent from "RNP1E8B73" (Aficio MP 7001).

Scan Date: 12.24.2013 08:29:30 (-0500)
Queries to: dcs.copiers@nebraska.gov

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From: Microsoft Outlook on behalf of Kristalyn, Kendra
Sent: Thursday, March 20, 2014 8:28 PM
To: Jensen, Audra
Subject: RE: Maternity Leave - Quick Notes
Attachments: RE: Maternity Leave - Quick Notes

Sender: kendra.kristalyn@nebraska.gov

Subject: RE: Maternity Leave - Quick Notes

Message-Id: <861F0A4C0EDE014A8D4F24D219C8B7CB4514705A@STNEEX10MB01.stone.ne.gov>

To: audra.jensen@nebraska.gov

From: Kristalyn, Kendra
Sent: Thursday, March 20, 2014 8:28 PM
To: Jensen, Audra
Subject: RE: Maternity Leave - Quick Notes

Additional Quick Notes:

Parole Certificates:

- Send a copy to Carolyn Stewart at APA. Try to do it next day, unless you have several falling in the same week.
- During Parole Hearings, keep the original copy (purple inked copy) to send to Carolyn Stewart – they prefer originals.

Time/Sentence Sheets:

- Sign all then make two copies. Keep originals for Records; give one to caseworker (usually Golliday) and one to the inmate.

Passwords:

**Computer,
 Password:**

**Email:
 Password:**

**NICaMS
 Password:**

**C2:
 Password:**

You can see a theme. If doesn't work, try|

And okay...two final notes for tonight. Tomorrow, just worry about getting all of the discharge/parole documents completed and put in Master Control for the discharges/parolees. Please let _____ know that her bus ticket will be waiting for her at the bus stop...she will NOT have it when she leaves here very early on Sunday morning. Make sure they have all their paperwork (checks with Lynn), meds and any property in Records/Intake. Make sure Master Control knows that they are leaving. I like to call and see if Master Control has the travel order before I leave for the day.

On Monday, get together with Ginger and figure out where to send: _____, discharge certificate. It is on the long table. It should just be a formality with paperwork that you fax to Iowa and wait for back. Check with Lynn on what kind of release statement to send, etc. If you have any questions, shoot me a text or an email.

You are going to do very well. Remember that if you are feeling overwhelmed you can throw whatever you need to at Central Office. If all you can do is scan them the commitment orders with numbers instead of entering them in the computer – that is TOTALLY fine. Don't stress too much. We have all day to get things done. Call with anything. ☺

Kendra Kristalyn

246

NCCW Records Manager
1107 Recharge Rd.
York, NE 68467
p. (402) 362-3317 ext. 218
f. (402) 362-3892

From: Kristalyn, Kendra
Sent: Thursday, March 20, 2014 12:21 AM
To: Jensen, Audra
Subject: Maternity Leave - Quick Notes

Hey Audra,

Here are some quick notes about the main duties that you will be covering for me while I am on leave. You probably remember most of this, so it will be a quick review. Don't hesitate to email or call with any questions.

Sentence Calculations:

- As soon as commitments come in via telephone or fax, try to send out an email to the New Commitment/Returnee email list with as much information as you can find. Typically I look them up in NCJIS and add whatever relevant information that I find there to my email.
- For the emails I put the inmates name as it appears on the commitment order, DOB, CR Number, Offense, Sentence, any Previous Numbers (with dates of time served), any Aliases, and any information on Holds, Warrants or Detainers if that is sent as well...
- As soon as possible, try to do a sentence calculation to determine if the commitment will be a book and release or not. If you find you have a book and release, send your sentence calculation to Mickie and Ginger. Alert Lynn as soon as possible so she can get an emergency gate pay check cut. As soon as the book and release arrives at NCCW, you need to obtain their Social Security Number, DOB and their race and call Special Services asking for an NCIC check. You can email the info to Special Services, but I usually call after I send it so that it can be completed asap. Once you get the all clear from Special Services you can determine travel arrangements for the new commit. Check CODIS and see if the new commit needs to submit a DNA sample - they usually do: Remember to have them fill out the \$25 check for their DNA test. If a book and release is supposed to give a DNA sample and refuses, call Mickie right away. So far I have not run across that, but it will affect the book and release's good time, etc. and possibly make them ineligible to leave. (Like I said, it hasn't happened yet, but I'm sure it will some day.)
- Check the age of the new commit. If the new commit is under 19 years of age make sure to highlight that in your email, special arrangements will have to be made in D&E. Call Golliday with a head's up (or Steve if it happens during Golliday's days off. Brook and Damon are good choices if Steve is stuck in meetings, etc.) Also, Mental Health has special paperwork that they have to fill out in a certain amount of time for a youthful offender.
- If you suspect a mandatory minimum, go ahead and put that into your email to Mickie and Ginger at the end of the day. There is a chart in my office that I will show you, but give those to a head's up as well - they can help determine how and if to apply it. (Some funky rules.) The biggest charges to look for are Class WM's for DUIs (depends on any priors), Class 3A or Class 3 Felonies for DUIs (depends on how many priors), Class 1 Felonies (typically we see these as weapons charges, etc.). As of right now, the only Class 3 Felonies that we have been applying mandatory minimums to have been DUIs - that was determined late last year by NDCS legal. Odd, not sure why...

Clearing Count:

- Do this every day when you get a chance. Remember to plug it into the monthly report every day so you just have to print out the monthly report on the 2nd of the month. Skrobecki, Assistant Warden, Diane Brune, Van Daam and Crosby get copies. Remember to print off a copy for Records.

DNA Testing:

- You already know how to create the DNA cards, etc. You can go ahead and use my DNA Testing Report in NICaMS on the Reporting side to figure out who needs testing.
- Remember that the sooner you can plug in the information on the New Commits NCCW Tear Sheet into C2, the sooner the DNA Testing Report will have all of the relevant information updated. (It updates every midnight, so the data should be available the next day after entry.)
- Once you create the DNA cards and the lists for checks, give the tests to Tanita. She will give the medical staff a deadline to get the tests done by.
- I try not to go more than two weeks in between DNA test batches - some weeks are heavy and some are light for commitments, etc. Medical is also down one nurse right now, so I try not to bombard them. (Doesn't always work...)

Temporary Release Orders:

- You know the drill. Sometimes Special Services sends them via email. Mickle Baum has your email so you should start receiving them. I will keep an eye on my email and forward anything random that I see. About 95% of them still come in via fax, so you will be fine.

Transfers to CCCL/CCCO:

- Steve will bring you Inmate Transfer Orders to review. Check Screen 25 in C2 for any active Holds or Detainers. Check NCJIS for any active Warrants. Check the Criminal History in NICaMS on the Data Entry and Inquiry side. If any of these things pop up, do not sign the order. Attach a note to the order for Steve to let him know what turned up.
- I also attach a note to the orders reminding Steve that I have not requested NCIC checks for the inmates on the orders. Steve requests those right now. Our contact is Dallen Johnsen at NSP.
- Once the Inmate Transfer Orders have been approved by all departments and Central Office, Steve will send them back to you, typically with a Reclassification for the inmate that specifically calls out that they are now 4A or 4B and going to CCCL or CCCO. Put the Transfer Orders in the folder on my desk and put the Reclassifications in the inmate files, noting any custody level change on the front cover. If you do not have the Reclassification that denotes the community custody level and specific institution that the transfer is going to, call Steve. Sometimes we are waiting on those last minute from Central Office.
- Steve will send out an email after NCIC checks come back on who he wants to send to community. Usually he will give everyone at least two days to pull stuff together, but he is under a lot of pressure to move people. (Medical just told me that they technically should not sign inmate processing out forms after 1300 hours on a given day, so sometimes they are put in quite a bind. Just gently direct them to talk to Steve about the time frame, etc.)
- If you have an especially tight time frame, go ahead and give Van Daam a call and make sure she has had time to see her email. I check to see who the transferring inmates caseworkers are and then send them an email asking for the caseworker files. I usually give them a deadline of the day/afternoon before the transfer so I have a chance to put them in the folder. If it is someone's day off, ask Brook or Damon to get the file for you. If all else fails, let Steve know. If you don't get a file in time, just let Mary Wellman at CCCL or Val Granholm at CCCO know that the treatment file will be coming asap.
- Check for any inmate property in Records (birth certificates, SS Cards, whatever is in the filing cabinet for the inmate). Pull any PSIs and put in the files. If you have time, pull any loose filing for the inmates transferring and put it in the file.
- The day before the inmates are to transfer, forward the list to the CCCL/CCCO Transfers email list. The people on that list have to do entries into C2 for the inmates transferring.
- Make sure whoever is in Master Control signs the Inmate Transfer Orders, then make sure the Orders go with the files to CCCL/CCCO. I can't remember if Master Control is on the email that Steve sends out, so make sure that Master Control knows who is leaving.

Initial Classifications:

- You are all over this one as well. Remember to make two copies of the classification part (one stapled for Medical, one paper clipped for Mental Health). If there is the health summary in the classification, make a copy and put it under the first tab in the file. Remember to pull out the personal plan and put it on top of tab six in the file. If there is an D&E Orientation Packet Checklist in the classification packet, pull that out and put it on top

