

STATE OF MINNESOTA
COUNTY OF HENNEPIN
State of Minnesota
v.
Kimberly Ann Potter

DISTRICT COURT
FOURTH JUDICIAL DISTRICT
Case #: 27-CR-21-7460
Charge: Manslaughter - 1st Degree
Type: Felony

SENTENCE

Executed Sentence. You are committed to the custody of the Commissioner of Corrections for **24 months** (and a conditional release period of _____ years following any executed prison term). Credit **58 days**.


FINANCIAL ORDER

Pay: Fine of **\$1,000** will be taken from prison wages.
 Surcharge of **\$78** will be taken from prison wages.
 Restitution is reserved for **60 days** to allow the prosecutor to submit any claim and documentation to the court). Restitution shall be paid prior to other fines, charges, or costs. Restitution is joint and several with any/all convicted co-defendant(s). The court grants the prosecution's motion to keep the victim's contact sheet confidential in District Court records.

CONDITIONS OF PROBATION

- Provide a biological sample for DNA analysis as mandated by statute.
- No possession of firearms, firearm components, or explosive devices.
- This sentence is a durational departure.
- Follow the attached Standard Probation Conditions, as well as the following:
 - Tell your Probation Officer within 72 hours of your sentence and/or release from custody.
 - Submit to the electronic and/or physical search of your person and/or premises upon the request of a Probation Officer per the search and seizure policies of the Department of Community Corrections and Rehabilitation.
 - Do not leave Minnesota unless you have the permission of your Probation Officer and you comply with all the rules of the "receiving state." Your Probation Officer can help you complete the required forms.
 - Provide verification of your participation in, and completion of, required services, programs, or evaluations to Probation. Verification allows Probation to confirm your involvement with such services, programs, or evaluations.
 - If you are required to register as a predatory offender, your Probation Officer will help you with any required registration; this is, however, always your responsibility. If you are homeless and you are required to register, you must check-in on a weekly basis at a local police station.

Notice: Probation time served out of custody will not count in a future prison term if the stay is revoked.



REGINA M. CHU
Judge of District Court

February 18, 2022

Date

I HAVE READ AND UNDERSTAND THE CONDITIONS OF MY SENTENCE.

Not signed due to COVID-19

Defendant

February 18, 2022

Date

APPEAL: You have the right to appeal any verdict, as well as this sentence. If you do not have funds to hire a lawyer, you may contact the State Public Defender's Office at 540 Fairview Avenue North, St. 300, St. Paul, MN 55104 (651-201-6700). Generally, you have 90 days to file your appeal. You can contact the Clerk of the Appellate Courts (651-296-2581) for more information. Information is also available on the internet. See www.mncourts.gov/About-The-Courts/CourtOfAppeals.

<i>Defendant Name (Last, First, Middle)</i>	<i>Sentence Date</i>	<i>County</i>	
<i>Judge Name</i>	<i>Report Date</i>	<i>District Court Case No.</i>	<i>Count No.</i>
<i>Report Completed By (Name/Title):</i>		<i>Contact Email/Phone</i>	

Instructions

In making decisions about departing from the Guidelines, and in writing reasons for departures, judges should consult section 2.D of the ***Minn. Sentencing Guidelines and Commentary***. This report should be completed by the Court when:

- (a) The pronounced disposition (prison/probation) differs from the presumptive disposition under the Guidelines;
- (b) The length of the sentence pronounced by the Court differs from the presumptive sentence length;
- (c) A consecutive sentence is given in a circumstance other than described in section 2.F of the Guidelines;
- (d) A consecutive sentence is not pronounced when consecutive sentencing is presumed under the Guidelines;
- (e) A non-felony sentence is pronounced for an offender convicted of a felony-level offense; or
- (f) The pronounced length of stay exceeds five years or the length of the statutory maximum punishment, whichever is less, in a circumstance other than described in section 3.A.2.d of the Guidelines.

Type of Departure (Check all that apply)

<p>Dispositional:</p> <p><input type="checkbox"/> Mitigated/Downward (Stay – Guidelines presume prison)</p> <p><input type="checkbox"/> Aggravated/Upward (Prison – Guidelines presume stay)</p> <p><input type="checkbox"/> NOT an aggravated/upward dispositional departure: Sentence was executed pursuant to offender’s right to demand execution, offense date after 7/31/2015 (Guidelines section 2.D.1.f).</p>	<p>Durational:</p> <p><input type="checkbox"/> Mitigated/Downward Prison Duration (Less than Guidelines time)</p> <p><input type="checkbox"/> Aggravated/Upward Prison Duration (Greater than Guidelines time)</p> <p><input type="checkbox"/> Mitigated/Downward Non-Felony Sentence (Misdemeanor or Gross Misd. sentence pronounced for felony-level conviction)</p> <p><input type="checkbox"/> Aggravated/Upward Length of Stay (Exceeds 5 yrs. or stat. max., whichever is less; Guidelines section 3.A.2.)</p>	<p><input type="checkbox"/> Consecutive (Departure from Guidelines policy on consecutive sentencing)</p>
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Please indicate how the sentence was imposed if the sentence was an **aggravated departure**.

- Jury determination of aggravating factors Defendant waived right to jury determination of aggravating factors

Reason(s) for Departure

Please do one or more of the following: 1) Check the appropriate reason(s) for departure on the checklist of frequently cited departure reasons on page 2; 2) Write the reasons in the space below; or 3) Attach the relevant pages from the sentencing order or sentencing transcript.



**Frequently Cited Reasons and
Additional Information**

Section 1, below, contains frequently cited reasons for departure provided to the Court for convenience. Check all reasons that apply. An asterisk (*) denotes a reason listed in Guidelines section 2.D.3, which is a nonexclusive list. Reasons with no asterisk are not enumerated in the Guidelines, but may be sanctioned elsewhere in law. Items listed in section 2 are requested as additional information.

The Court may also record reasons for departure in the space provided on page 1.

Section 1. Frequently Cited Reasons for Departure

Related to Nature of Current Offense

Reasons Frequently Used as Mitigating Factors:

- Offender played minor or passive role*
- Victim was aggressor in incident*
- Crime less onerous than usual

Reasons Frequently Used as Aggravating Factors:

- Victim treated with particular cruelty*
- Victim was particularly vulnerable*
- Victim injury/psychological impact on victim
- Current conviction is offense w/ victim injury (including Crim. Sex. Conduct) and there is a similar prior*
- Major economic offense--involves 2 or more of following.*
 - multiple victims/multiple incidents per victim
 - use of position/status
 - high degree planning/soph./lengthy period of time
 - actual/attempted loss greater than usual/than min.
 - similar prior conduct
- Committed, for hire, a crime against the person*
- Committed crime as part of a group of three or more persons who all actively participated in the crime*

- Major controlled substance crime involving 2 or more of the following:*

- 3 or more separate transactions
- offender or accomplice possessed equipment, paraphernalia, or monies evidencing wholesale trafficking
- involved manufacture for use by others
- offender or accomplice possessed firearm or other dangerous weapon during offense
- high position in drug distribution hierarchy
- high degree of sophistication/lengthy period of time
- use of position/status
- separate acts in 3 or more counties
- prior conv. under Minn. Stat. § 609.1095, s. 1(d), except prior under chap. 152, including attempt or conspiracy
- sale to a minor or vulnerable adult
- occurred in a zone or correctional/treat. facility
- Multiple victims or multiple incidents per victim
- Crime committed in victim's home or zone of privacy
- Position of authority, superiority, confidence or trust
- Crime more onerous than usual offense

Related to Individual Offender

Reasons Frequently Used as Mitigating Factors:

- Lacked substantial capacity for judgment (not drug/alc.)*
- Particularly amenable to probation*
- Particularly amenable to treatment:
 - Chem. dependency Sex offender Other
 - Convicted of controlled substance offense, is particularly amenable to probation based on adequate evidence that offender is chemically dependent and has been accepted by, and can respond to, a treatment program in accordance with Minn. Stat. § 152.152*

- Impose restitution/ensure financial penalties paid
- Ensure compliance w/ probation or allow longer supervision
- Shows remorse/accepts responsibility
- Current Severity Level 1-4 offense and priors resulted from crime spree*

Reasons Frequently Used as Aggravating Factors:

- Has failed on probation/unamenable to probation
- Career Offender under Minn. Stat. § 609.1095, s. 4
- Dangerous Offender under Minn. Stat. § 609.1095, s. 2
- Engrained Offender under Minn. Stat. § 609.3455, s. 3a

Related to Requests for Executed Sentence

- Request prison to avoid probation and/or jail
- Request prison as part of a plea agreement
- Request prison--revocation/prison on another offense
- Request prison--other reasons _____

Related to Recommendations Regarding Sentence

- Recommended by court services
- Recommended by treatment professional

Section 2. Additional Information Requested (if applicable)

Regarding Victim/Witness

- Recommendation or agreement of victim/victim's family
- Witness is unlikely, unable, or unwilling to testify
- Prevent trauma to witness from testifying

Regarding Plea Agreements and Prosecutorial Recommendations

- Prosecutor objects to the departure
- Departure recommended by prosecutor
- Prosecutor does not object to the departure
- Plea agreement on sentence
- Prosecutor motion to sentence without regard to Minn. Stat. § 609.11

* Indicates reasons specified in the *nonexclusive* list in section 2.D.3 of the Minn. Sentencing Guidelines and Commentary.

State of Minnesota vs Kimberly Ann Potter

ORDER

Case Number: 27-CR-21-7460

WARRANT OF COMMITMENT

CURRENT DEFENDANT INFORMATION			
Known Address:	10141 Fernwood Ln N. Champlin, MN 55316	Correspondence Address:	10141 Fernwood Ln N. Champlin, MN 55316
Phone Number:	(C) 908-418-2008	Sex:	Female
		DOB:	06/18/1972

CASE CHARGES				
Ct	Statute	Type	Description	Disposition
1	609.20(2)	Charging	Manslaughter - 1st Degree - While Committing Gross Misdemeanor/Misdemeanor with Violence.	Convicted
	609.11.5(a)	Penalty	Minimum Sentences of Imprisonment-Firearm Use or Possession	
2	609.205(1)	Charging	Manslaughter - 2nd Degree - Culpable Negligence Creating Unreasonable Risk	No adjudication-lesser offense

TERMS OF DISPOSITION OR SENTENCE: COUNT 1				
Level of Sentence:	Felony			
Date Pronounced:	February 18, 2022			
<i>Offense Information</i>				
Ct	Offense Date	Statute	Description	Offense Disposition
1	04/11/2021	609.20(2)	Manslaughter - 1st Degree - While Committing Gross Misdemeanor/Misdemeanor with Violence.	Convicted
	MOC at Filing	GOC	Controlling Agency	Controlling No.
	H4913		MN Department of Public Safety - BCA	21000273
<i>Sentence Details</i>				
Commit to Commissioner of Corrections - Adult				
Report on: 02/18/2022				
Commit to Commissioner of Corrections at the MN Correctional Facility - Shakopee for 24 months. Credit for time served amount is 58 days.				

This sentence consists of a minimum term of imprisonment equal to two-thirds of the total executed sentence, and a maximum supervised release term equal to one-third of the total executed sentence, unless the sentence is life or life without the possibility of release.

Time to Serve: 24 months

Was this a departure from the sentencing guidelines? Yes

Downward Durational

Attach a departure report and file with the Sentencing Guidelines Commission within 15 days.

Fine and surcharge to be taken from prison wages

Status: Active

Status Date: 02/18/2022

Conditions - Adult

Defendant is placed under the following conditions:

Condition	Location	Amt	Effective	End
Give a DNA sample when directed.			02/18/2022	
Do not use or possess firearms, ammunition or explosives			02/18/2022	
Restitution reserved			02/18/2022	04/19/2022

Fees

Sentence includes a \$1,000.00 fine.

Law Library Fees	\$3.00		
County/Sheriff & Felony Fines	\$1,000.00		
Crim/Traffic Surcharge (once per case)	\$75.00		
Subtotal	\$1,078.00	Due	02/18/2022

GRAND TOTALS

Date of Sentence: 02/18/2022

Due Date: 02/18/2022

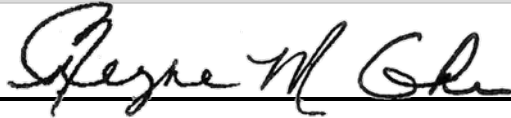
Original Amount: \$1,078.00

The court may refer this case for collection if you fail to make a payment, and collection costs will be added. You have the right to contest a referral for collection based on inability to pay by requesting a hearing no later than the due date. M.S. §§ 480.15, subd. 10c; 609.104

CREDIT TIME SERVED

Count 1: 58 days

SIGNATURE



Judge Regina M. Chu

Sentence pronounced on 02/18/2022 by District Court Judge

Court Administrator: Sarah Lindahl-Pfieffer

612-348-2040

If you have questions regarding the terms of your sentence or disposition, please contact your attorney, EARL P GRAY 651-223-5175, your probation agent or court administrator.