

STATE OF MINNESOTA
COUNTY OF DAKOTA

FIRST DISTRICT COURT - DAKOTA
CRIMINAL DIVISION

State of Minnesota,

DEFENDANT'S REPLY TO THE
DAKOTA COUNTY ATTORNEY'S OBJECTION
TO DEFENDANT'S PETITION FOR
RESTORATION OF FIREARM RIGHTS UNDER
THE COURT'S AUTHORITY.

Plaintiff,

v.

Court File No.

Judge:

Shannon Cortez Gooden,

Defendant.

Defendant, Shannon Cortez Gooden, hereby submits his Reply to the Dakota County Attorney's Objection To Defendant's Petition For Restoration of Firearm Rights. This motion is made on the following grounds: (1) Mr. Gooden has long been released from physical confinement and that there is good cause for the Court to grant this motion; and 2) because of the age of the crime coupled with the fact that Mr. Gooden has clearly been rehabilitated, it is in the interest of justice for the Court to grant this motion

Dated: September 30, 2020

LAW FIRM OF HIGBEE & ASSOCIATES

By: /S/ Mathew K. Higbee

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

This action arises out of a case from 2007 in which Mr. Gooden was convicted under Minnesota Statute § 609.222.1, Assault in the 2nd degree. The offense was ultimately treated as a misdemeanor. Since completing his sentence for this offense in 2013, Mr. Gooden has taken significant steps to prove his value as a productive and law-abiding citizen. Mr. Gooden has committed himself to his family and career. Mr. Gooden is not currently serving a sentence for any offense, on probation for any offense, or charged with the commission of any offense.

Minnesota Statutes § 609.165, subd. 1d, provides that the Court may grant a judicial restoration of the ability to possess a firearm when the defendant shows good cause to do so and when he or she has been released from physical confinement. As demonstrated below, Mr. Gooden satisfies both parts of the statute. Not only is there good cause for this Court to grant him this motion, but it would be in the interest of justice for the Court to do so.

On or about July 7, 2020, Mr. Gooden filed his Petition for a Restoration of Firearm Rights. A hearing date was set for September 19, 2020. As the State failed to appear, the hearing was rescheduled to October 9, 2020. On or about September 29, 2020, the Dakota County Attorney opposed to Mr. Gooden's petition stating Mr. Gooden did not establish good cause. However, Mr. Gooden has established good cause and is deserving of having his firearm rights restored, as further supported by Exhibits A-G, including his affidavit, and letters of support from family friends, previously filed with his Petition for a Restoration of Firearm Rights.

II. ARGUMENT

A. Mr. Gooden Establishes Good Cause for having his Firearm Rights Restored.

Minnesota Statute § 609.165, subd. 1a, prohibits felons who have been convicted of a "crime of violence" from possessing firearms. Crimes of violence are various felony convictions defined under Minnesota Statute § 624.712, subd. 5. These include, but are not limited to, murder, manslaughter, assault, robbery, sex crimes, theft, arson, and burglary. *Id.*

The ban in Section 609.165, subd. 1a, is a lifetime ban. However, Section 609.165, subd. 1d, allows a court to relieve an individual from this harsh lifetime ban and restore to the individual the right possess a firearm if (a) there is good cause to do so, and (b) the individual has been released from physical confinement.

Minnesota courts have not clarified what the meaning of "good cause" is as used in the

statute. However, in *State v. Moon*, 463 N.W.2d 517 (Minn. 1990), the Minnesota Supreme Court did note that “Section 609.165, subdivision 1a, is a measure designed to protect the public safety by keeping firearms out of the hands of convicted criminals who have committed crimes which, in the legislature’s judgment, are indications of future dangerousness.” *Id.* at 520 (emphasis added).

Mr. Gooden’s crime of violence, assault in the second degree, occurred in 2007, in a mall parking lot when he was 21 years old. As the County Attorney even noted, since 2007, although Mr. Gooden has received various traffic offenses, he has not been convicted of such similar crimes. While the County Attorney also mentions two protective orders, he most importantly notes that they were never issued and in fact were dismissed. As this Court can see below, Mr. Gooden has demonstrated over the past 12 years that he is not the kind of dangerous criminal that the Legislature had in mind when it enacted the statute. He completed anger management courses while incarcerated, received an education and has worked hard to provide for his children. Not only has Mr. Gooden been long released from physical confinement, but there is good cause for this Court to restore his gun rights.

Furthermore, even though Mr. Gooden was convicted of assault in the second degree, and it involved a knife, his offense was ultimately deemed a misdemeanor under Section 609.13 because the sentencing court did not view the circumstances of his particular offense serious enough to impose a felony sentence. Although this fact obviously does not prevent the lifetime ban from applying to Mr. Gooden, this Court can certainly take it into account in exercising its discretion in deciding whether there is “good cause” to restore his gun rights.

The evidence of rehabilitation presented by Mr. Gooden shows that he is deserving of having his firearm rights restored. The ability to possess and operate a firearm is one of the most cherished rights for many Americans. Mr. Gooden has spent the past 12 years making up for the poor decision he made when he was much younger and less mature. His present behavior and maturity indicate that he is capable of handling a firearm responsibly if this right is restored to him.

B. The Benefits of Restoration of Firearm Rights are Commensurate with the Concern of Public Safety and Burden on the Courts.

The County Attorney objects to Mr. Gooden’s expungement on the grounds that he has not demonstrated that the benefit to Mr. Gooden would be commensurate with the concern of

public safety and burden on the courts. However, Mr. Gooden has undergone tremendous personal and professional growth.

Mr. Gooden is not a dangerous criminal. Moreover, Mr. Gooden poses no potential risk to the community that would cause concern for public safety. He has done everything he can to put himself back on his feet, move forward, and live the life of a productive and law-abiding member of society. He has taken anger management classes and parenting classes, earned his associate degree, maintained his employment for the past seven years, and provided for his long-term girlfriend, her two children and his five children. Furthermore, he is described by family friends as a responsible and reliable person, with morals, family values and integrity, who works hard to provide for his family, teach his children important values and help others through tough times. *See* Exhibits E-G, previously attached to Plaintiff's Petition for Restoration of Firearm Rights. Mr. Gooden is working hard in order to be in the best position to be a productive member of society. Mr. Gooden's family motivates him to be a better man, and Mr. Gooden merely wants to provide for all of their needs, including their protection. Mr. Gooden is clearly rehabilitated and has moved forward with his life. Accordingly, in the present case, the benefits of restoring Mr. Gooden's firearm rights are commensurate with the disadvantages to the public and burden on the courts.

C. CONCLUSION

For the foregoing reasons and Mr. Gooden's desire to reach his full personal and professional potential, Mr. Gooden respectfully requests this Court to grant his petition for restoration of his firearm rights.

Dated: September 30, 2020

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