

Accused St. Paul bar shooter could have gone to prison 4 times. He was sent once.



The block is taped off after a late night shooting at the Seventh Street Truck Park at 214 W. Seventh Street in St. Paul, Sunday morning, Oct. 10, 2021. (Scott Takushi / Pioneer Press)

By [MARA H. GOTTFRIED](#) | mgottfried@pioneerpress.com and [DEANNA WENIGER](#) | dweniger@pioneerpress.com | Pioneer Press

PUBLISHED: October 16, 2021 at 11:56 p.m. | UPDATED: October 17, 2021 at 12:09 a.m.

Terry Lorenzo Brown Jr. was given multiple chances by the criminal justice system to change his behavior, according to his lengthy criminal record.

But the trouble didn't stop — robbery, drug possession, domestic abuse, violating orders for protection, drunken driving.

Brown was sentenced for five felonies between 2007 and 2019. While state sentencing guidelines recommended prison time in four of the cases, judges gave him lighter sentences in three of the cases and didn't send him to prison — the possibility of being locked up was hanging over his head if he violated terms of his probation.

Instead of going to prison when Brown continued to break the conditions of his probation, he was given more probation. In all, from 2007 to the present, most of the time Brown spent locked up was while he waited for his cases to be heard. Once he was sentenced, he received credit for time served and was released from custody.

On Oct. 10, prosecutors say Brown was armed with a gun that was illegal for him to possess, due to his past convictions, when he [engaged in a shootout with another man that left one dead and 15 injured at the Seventh Street Truck Park bar](#). It was the worst shooting incident in memory in St. Paul.

TOO MANY CHANCES?

Was Brown, 33, given one chance too many? Some say yes.

“I’ve always believed in second chances for people who are willing to take responsibility for their actions,” said St. Paul Police Chief Todd Axtell, speaking about the system in general terms, saying he couldn’t talk about the people involved in the investigation. “But a line needs to be drawn somewhere, and for me it’s where we see people who continue to use weapons and violence against our neighbors — and that means unapologetically holding repeat offenders accountable.”

Others say the leeway afforded in the state’s sentencing guidelines does more good than not, and judges have to grapple with the information they’re provided as they weigh sentencing.

“For every incident where a (sentencing) departure fails, we probably find two where departure succeeds,” said Ramsey County Chief Judge Leonardo Castro, who was also talking in general terms. “... Hopefully we get it right, but of course there’ll be times when we get it wrong. We struggle with those decisions and we live with them.”

The family of Marquisha Wiley — the 27-year-old veterinary technician killed on Oct. 10 — wrote in her [obituary](#) that “there is no justice that such a bright light in this world was extinguished as a result of senseless and needless violence.”

The reason for the shooting was an argument about domestic abuse, according to murder and attempted-murder charges filed against Brown, of St. Paul, and Devondre Trevon Phillips, 29. They allegedly shot at each other in the crowded West Seventh Street food hall and bar, catching Wiley and 12 others in their crossfire.

Phillips, Brown and a man who Brown was talking to were shot and wounded. Police later learned of another person who was injured in the shooting, increasing the overall tally to 16.

HOW THE SYSTEM WORKS

To understand Brown’s history with the court system, it’s helpful to first understand how the system works.

Minnesota’s sentencing guidelines, adopted in 1980, are a grid that prosecutors, defense attorneys and judges use. A sentence’s length depends on the severity of the crime and the defendant’s criminal history.

The grid includes recommendations that a sentence can be stayed, or suspended — the person is put on probation and may have to serve up to a year at a jail or workhouse. Should the defendant violate conditions of his probation, he could end up serving the original sentence.

Judges can choose to follow the sentencing guidelines or depart from them. If they give more or less time than the grid suggests, they have to provide specific reasons.

For example, in the case of Derek Chauvin, the former Minneapolis police officer convicted of killing George Floyd, the [judge chose an upward departure](#) — meaning more prison time — and had to explain that he based his decision on aggravating factors specific to the case.

CRIMINAL HISTORY

Brown was first convicted of a felony, aggravated robbery, at age 18. In the 14 years that followed, Brown was sentenced for at least nine offenses in Minnesota, ranging from misdemeanors to felonies. An attorney for Brown couldn't be reached for comment.

The one time that Brown was sent to prison came when he was 26 and was convicted of aiding and abetting simple robbery in Ramsey County. He was sentenced in 2014 to two years and five months, which was a guidelines sentence.

Court records and information from the Minnesota Sentencing Guidelines Commission show the following about Brown's history:

- In 2007, an aggravated robbery conviction, Hennepin County. Based on the severity of the case, the presumptive sentence was prison. To the objection of the prosecutor, he received a downward departure with stayed prison time — the reasons cited were that Brown was amenable to probation and remorseful. He was credited for 143 days he had served in the workhouse and put on probation for seven years.
- In 2011, a drug possession conviction, Hennepin County. The guidelines sentence was a stay of execution, which is what Brown received. He was put on probation until 2015.
- In 2017, a gross misdemeanor domestic assault conviction, Ramsey County. He was sentenced to one year, which was stayed, and released after serving 69 days.
- In 2017, a felony violation of no-contact order, Ramsey County. The guidelines sentence was prison. He received a stayed sentence, credit for 25 days he served in jail and was released on probation until 2022. It was a plea agreement that police and the victim supported, according to the Ramsey County attorney's office.
- And in 2019, a felony violation of no-contact order, Hennepin County. State sentencing guidelines called for Brown to be sent to prison; the sentence was stayed with the judge indicating that Brown was amenable to probation. He served 180 days on work release. The Hennepin County attorney's office said it was supported by the victim. He violated probation twice more, resetting his time through 2024.

The sentencing guidelines commission [provides guidance](#) on when a person's stayed sentence could be revoked — when someone is convicted of a new felony, for which the sentencing guidelines recommend prison, or if the person “continues to violate conditions of the stay despite the court's use of expanded and more onerous conditions,” according to the sentencing guidelines.

“The decision to revoke an offender's stayed sentence should not be undertaken lightly,” the document continues. “Great restraint should be exercised in imprisoning offenders who were originally convicted of low severity level offenses or who have short prior criminal histories. ...

Less judicial tolerance is urged for offenders who were convicted of a more severe offense or who had a longer criminal history.”

SENTENCING GUIDELINES FOR FELONIES

Most of the time in Minnesota, judges adhere to the sentencing guidelines for felonies.

In 2,353 cases, representing nearly 14 percent of all cases in Minnesota, the sentence was probation when the guidelines recommended prison, according to [2019 data](#) collected by the Sentencing Guidelines Commission’s staff, the most recent available. In 33 cases, representing 0.2 percent, the

Sentencings in Ramsey and Hennepin counties more often result in downward departures.

Among the state’s 10 judicial districts, Ramsey County had the highest rate of downward departures in prison-recommended felony cases in 2019 — 51 percent received stayed sentences when the guidelines recommended prison time. In Hennepin County, 34.5 percent received stayed sentences when the guidelines recommended prison.

At the same time, the Ramsey County judicial district had the highest rate of incarceration for felony sentences — almost 99 percent had some kind of confinement, whether it was the workhouse or prison, according to the 2019 data.

‘TRAGIC AND PREVENTABLE CONSEQUENCES’

Brown’s most recent conviction was in August for driving while impaired. He was sentenced to 365 days in the Hennepin County workhouse and given credit for having served 86 days. The remaining 279 days were stayed for five years, and he was put on probation for five years.

Misdemeanors and gross misdemeanors are not covered by the sentencing guidelines and judges have discretion in sentencing. A misdemeanor carries a maximum of 90 days in custody and gross misdemeanors up to one year.

State Rep. Marion O’Neill, R-Maple Lake, pointed out that if Brown had not received a stayed sentence, he would have been locked up on the night of the bar shooting. O’Neill is on the House Public Safety and Criminal Justice Reform Finance and Policy committee.

“These failures of our justice system are having tragic and preventable consequences,” she said. “We need all judges and prosecutors to do their jobs and keep Minnesotans safe.”

The Metropolitan Airports Commission, which prosecuted the case because Brown was arrested while driving near a terminal, says the time Brown served was nearly three times the state minimum sentence for second-degree DWI.

“Rarely, if ever, would someone charged with second-degree DWI serve a full 365-day sentence,” said Patrick Hogan, airports commission spokesman. “Courts tend to limit time

served in jail both due to jail space and the desire to provide an incentive for the convicted individual not to commit a same or similar crime.”

JUDGING AFTER THE FACT?

Rep. Ryan Winkler, DFL-Golden Valley and the House Majority leader, said Brown’s case shows that guns are too easily available.

“We can’t have a system where multiple repetitive acts and failure to comply with legal requirements is treated as though it’s just a one-off,” said Winkler, who is running for Hennepin County attorney next year. “If it’s consistent over time, I think we need to be able to ratchet up the level of sanction for the individual.”

Mary Moriarty, former chief Hennepin County public defender, pointed out on Twitter that people are frequently furloughed from the workhouse after sentencing for a variety of reasons. “It might have been part of the agreement, or related to Covid, or treatment, or the list goes on.”

Moriarty, who is also running for Hennepin County attorney, added: “It is really easy to judge, after the fact, when something goes terribly wrong, without knowing anything about the actual people and their particular circumstances. It is not fair to anyone, including the victims of this tragedy.”

OTHER SUSPECT DOESN’T HAVE RECENT CRIMINAL HISTORY

After the Oct. 10 shooting, Brown told police that he saw Phillips when he entered the bar. The men were in a dispute due to allegations of domestic abuse between Brown and his girlfriend, who is a relative of Phillips’, according to the criminal complaints. Video surveillance showed Phillips shot Brown, who fired back, the complaints said.

Phillips, of Las Vegas, previously had minor run-ins with the law, with no cases in Minnesota after 2013, court records show. He has no adult felony convictions, according to the Ramsey County attorney’s office.

He was charged at age 16 in Ramsey County with first-degree attempted aggravated robbery and adjudicated delinquent — the juvenile version of being found guilty. Other charges in the case were dismissed, including second-degree assault with a dangerous weapon and possession of a gun by a person under 18.

It was this 2008 adjudication that made Phillips ineligible to possess firearms, the complaint in the bar shooting said. His attorney, Thomas Handley, declined to comment on Friday.

DOMESTIC VIOLENCE AS A COMMUNITY ISSUE

Research on more than 170 mass shooters found 63 percent had a history of violence and 36 percent had a history of domestic abuse, according to the [Violence Project](#), which is led by

professors James Densley of Metropolitan State University and Jillian Peterson of Hamline University and examines "indiscriminate shootings" in which four or more people were killed in public.

Brown's criminal history includes two convictions for domestic assault. He told the mother of his children in 2017 that he would put her in a casket and, last September, he assaulted a girlfriend and stole her gun, according to a court document and a police report.

What happened in St. Paul wasn't a private domestic dispute but a community issue, said Becky Smith, Violence Free Minnesota interim executive director.

"We really need to start thinking about what were the circumstances that led to this kind of escalation," Smith said. "... It goes so much further beyond the two people who are in a relationship. I think that this case really demonstrates that — Marquisha Wiley was an innocent bystander to intimate partner violence."