

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE

v.

TYREZE MILLER,

Defendant.

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I.D. No.: 2412011692

Submitted: June 1, 2026

Decided: July 9, 2026

OPINION

Upon Defendant's Petition for Reverse Amenability – DENIED

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Adam D. Windett, Esquire, and Kevin M. Howard, Esquire, Hopkins & Windett, LLC, Dover, Delaware. *Attorneys for Defendant Tyreze Miller.*

GREEN-STREETT, J.

I. Introduction

A juvenile defendant charged with Murder in the First Degree seeks to have his case transferred to Family Court. The State opposes that transfer, contending the seriousness of the allegations and the juvenile's treatment needs render transfer inappropriate. Having considered the statutory factors, the Court agrees. The Petition for Reverse Amenability is **DENIED**.

II. Factual and Procedural Background¹

A. Dover Police Department's initial investigation

On December 24, 2024, officers from the Dover Police Department ("DPD") responded to Bayhealth Kent campus after receiving a report of a gunshot victim.² Juwan Walker, a 14-year-old boy, suffered a gunshot wound to the head.³ Mr. Walker arrived at Bayhealth with his mother, Victoria Sewell, and grandmother, Chiquita

¹ Portions of this factual recitation are duplicative of the facts set forth in the Court's contemporaneously-released decision regarding Defendant's Motion to Suppress, see D.I. 55.

² Tr. of March 30, 2026, Hrg. at A-108 (The Court held four days of hearings on Mr. Miller's Motion to Suppress and Motion for Reverse Amenability. Those hearings occurred on March 30 and 31, 2026, and May 4 and 5, 2026. Hereinafter, each transcript will be denoted using an abbreviated date. For example, the March 30, 2026 hearing will be denoted as "Tr. 3/30 at ____").

³ Id. at A-108.

Allen.⁴ Mr. Walker later succumbed to his injuries.⁵ At the time of the shooting, Mr. Walker possessed “two knives or three knives.”⁶

1. Ms. Sewell’s interviews and statements

DPD interviewed Ms. Sewell at Bayhealth on December 24, 2024, but Ms. Sewell’s recollection of the shooting proved inconsistent.⁷ She originally stated the shooting took place at a McDonald’s.⁸ She reported she was alone with Mr. Walker in her car when two boys walked up and one of them fired several shots. She heard one assailant say, “that’s not the boy, that’s not the boy,” before fleeing into a Chevy Tahoe.⁹

DPD presented Ms. Sewell with evidence that the shooting did not take place at McDonald’s, and she clarified that the shooting happened on White Oak Road near a church.¹⁰ Ms. Sewell explained she and Mr. Walker were in the area to pick up another boy named Damani before heading to Ms. Allen’s house for Christmas

⁴ Id. at A-108.

⁵ Id. at A-114.

⁶ Id.

⁷ Def.’s Ex. 4, Video 1.

⁸ Id. at 1:20.

⁹ Id.

¹⁰ Id. at 9:38.

dinner.¹¹ DPD officers suggested having Ms. Sewell direct them to where the shooting occurred, and Ms. Sewell agreed to do so.¹²

DPD conducted a second interview of Ms. Sewell at Bayhealth several hours after the shooting.¹³ Ms. Sewell reiterated the shooters fled into a black Chevy Tahoe.¹⁴ DPD conducted a third interview of Ms. Sewell approximately an hour-and-a-half later.¹⁵ DPD informed Ms. Sewell they recovered shell casings from the scene of the shooting.¹⁶ Ms. Sewell explained that, after the shooting, she drove herself and the critically-injured Mr. Walker to Ms. Allen's house, before Ms. Allen drove them to Bayhealth.¹⁷

Ms. Sewell stated two boys approached her car, but only one of the boys fired a gun.¹⁸ She identified the shooter as wearing a black coat with a blue surgical mask and a low haircut.¹⁹ She identified the non-shooter as having "little dreads in his

¹¹ Id. at 13:50.

¹² Id.

¹³ Def.'s Ex. 4, Video 2.

¹⁴ Id. at 7:42.

¹⁵ Def.'s Ex. 4, Video 3.

¹⁶ Id. at 6:10.

¹⁷ Id.

¹⁸ Id.

¹⁹ Id. at 10:10.

hair – little plaits in his hair.”²⁰ Ms. Sewell heard the non-shooter say, “that’s not him.”²¹ The two boys moved toward the Chevy Tahoe, but Ms. Sewell could not say whether they entered the Tahoe.²² Ms. Sewell further identified the shooter as Black, holding a black gun, and wearing gray gloves.²³ She reiterated the non-shooter had “plaits” in his hair.²⁴

DPD confronted Ms. Sewell with evidence that a third person may have been in her car at the time of the shooting.²⁵ Ms. Sewell adamantly denied the presence of a third person.²⁶ DPD insisted the evidence did not match Ms. Sewell’s version of events.²⁷ Ms. Sewell reiterated: 1) only Mr. Walker and herself were in her car; 2) that two boys walked up to the car before the shooter fired; and 3) that the non-shooter exclaimed, “that wasn’t him, that wasn’t him, we don’t even know that boy.”²⁸

²⁰ Id. at 10:20.

²¹ Id.

²² Id.

²³ Id. at 18:03.

²⁴ Id.

²⁵ Id. at 19:33.

²⁶ Id.

²⁷ Id. at 26:35.

²⁸ Id.

2. Instagram call/Ms. Kennedy's interview

During DPD's investigation, officers identified two juvenile brothers, Marlo Tolliver and Quincy May, as suspects in Mr. Walker's shooting.²⁹ DPD acquired a recording of an Instagram call from Mr. Tolliver's account in which Mr. Tolliver spoke "about being at the shooting and [provided] details of the shooting."³⁰ Mr. Tolliver placed that call to Leanna Kennedy, whom DPD interviewed.³¹ Ms. Kennedy confirmed Mr. Tolliver called her, and provided her details about the shooting.³² Based on her conversation with Mr. Tolliver, Ms. Kennedy believed Mr. May killed Mr. Walker.³³ Ms. Kennedy surmised that Mr. Walker had disrespected Mr. Tolliver and Mr. May's neighborhood, leading to the shooting.³⁴ Ms. Kennedy named another boy, only identified as "Zai," who told Ms. Kennedy that Mr. Walker was going to die two days before the shooting occurred.³⁵

²⁹ Tr. 3/30 at A-120.

³⁰ Id. at A-121.

³¹ Def.'s Ex. 3.

³² Id. at 1:30.

³³ Id.

³⁴ Id. at 5:54.

³⁵ Id.

Ms. Kennedy informed DPD that Mr. Tolliver and Mr. May would sell knives to Mr. Walker.³⁶ They told Mr. Walker they wanted to sell or buy knives on the day of the shooting – and used that to “set him up.”³⁷ Ms. Kennedy identified Mr. May and Mr. Tolliver as the two boys who walked up to Ms. Sewell’s car.³⁸ Ms. Kennedy stated both Mr. May and Mr. Tolliver carried guns.³⁹ She also recounted an incident about a week before the shooting, in which Mr. Tolliver shot her with a BB gun.⁴⁰

3. Surveillance footage/Search warrant of 23 Stevenson Drive

DPD obtained surveillance footage of Dover Park near where the shooting occurred. The footage depicted three individuals walking toward the area of the shooting immediately prior, and away from the area of the shooting shortly afterward.⁴¹ When officers retraced the path taken by the trio of suspects, officers recovered a blue surgical mask consistent with the mask Ms. Sewell reported the shooter wore.⁴²

³⁶ Id. at 10:39.

³⁷ Id.

³⁸ Id.

³⁹ Id.

⁴⁰ Id. at 5:45.

⁴¹ Tr. 3/30 at A-128-29.

⁴² Id. at A-125.

After identifying Mr. Tolliver and Mr. May as potential suspects, DPD executed a search warrant at 23 Stevenson Drive, Dover – the residence where both Mr. Tolliver and Mr. May lived.⁴³ DPD located two .40 caliber rounds of ammunition, matching the same type of ammunition as the shell casings found at the scene of the shooting, and clothing similar to the clothing descriptions provided by Ms. Sewell.⁴⁴ DPD found the ammunition in Mr. May’s bedroom.⁴⁵ DPD also uncovered a notebook containing rap lyrics referencing a shooting.⁴⁶

4. Marlo Tolliver’s interview

Contemporaneous to that search, DPD detained both Mr. Tolliver and Mr. May, along with several other juveniles present at the residence, and brought them back to DPD for questioning.⁴⁷ Mr. Tolliver’s mother, Jessica May, accompanied him for his interview with DPD.⁴⁸ Ms. May informed Detective Goad of DPD that Mr. Tolliver told her, “some boy named Tyreze shot [Mr. Walker].”⁴⁹ DPD later

⁴³ Id. at A-130.

⁴⁴ Id. at A-131.

⁴⁵ Id. at A-132.

⁴⁶ Id. at A-131.

⁴⁷ Id. at A-133.

⁴⁸ State’s Ex. 8 at 30:23.

⁴⁹ Id.

identified Tyreze as the Defendant – Tyreze Miller. Mr. Tolliver did not know Mr. Miller’s last name.⁵⁰ Initially, Mr. Tolliver stated he met up with Mr. Miller on Mr. Tolliver’s way to a friend’s house.⁵¹ He narrated that, when both young boys heard gunshots, they fled through Dover Park.⁵²

Detectives quickly began poking holes in Mr. Tolliver’s initial version of events.⁵³ Mr. Tolliver changed his story to include a person in the backseat of a gold car – Ms. Sewell’s car containing Mr. Walker – shooting at himself and Mr. Miller before Mr. Miller returned fire.⁵⁴ When detectives informed Mr. Tolliver they possessed the Instagram recording of Mr. Tolliver giving details about the shooting, Mr. Tolliver responded, “Tyreze was the one who shot him, I ain’t saying nobody else. I think it was Tyreze.”⁵⁵

Mr. Tolliver denied Mr. May’s involvement, and said he did not know the third person in the surveillance footage.⁵⁶ He identified Mr. Miller as wearing a ski mask

⁵⁰ Id. at 52:38.

⁵¹ Id.

⁵² Id.

⁵³ Id. at 55:40.

⁵⁴ Id. at 58:50.

⁵⁵ Id. at 1:05:10.

⁵⁶ Id. at 1:07:50.

and one gray Nike football glove.⁵⁷ Eventually, Mr. Tolliver admitted to a plan to shoot Mr. Walker.⁵⁸ Mr. Tolliver then again changed his story, stating Mr. Miller shot first and the alleged person in the backseat of Ms. Sewell's car returned fire.⁵⁹ Mr. Tolliver denied using his phone to contact Mr. Walker, explaining he used a friend's phone – another juvenile named Ambition Parker – to access Instagram.⁶⁰

5. Lamar Suarez's interview

Mr. May's and Mr. Tolliver's older brother, Lamar Suarez, was also detained during the search of their house and questioned by DPD.⁶¹ Mr. Suarez denied any knowledge of the shooting.⁶² After some prodding by detectives, Mr. Suarez eventually stated both of his brothers left the house the night of the shooting.⁶³ He believed that the third person seen with them on surveillance footage would have been Micah Boyd, another juvenile detained during the search of 23 Stevenson Drive.⁶⁴ At the time, Mr. Boyd's hair matched the description of the non-shooter

⁵⁷ Id.

⁵⁸ Id.

⁵⁹ Id. at 1:10:30.

⁶⁰ Id. at 1:19:00.

⁶¹ State's Ex. 2.

⁶² Id. at 2:15.

⁶³ Id. at 8:25.

⁶⁴ Id.

identified by Ms. Sewell. Detectives asked if Mr. Suarez knew someone named “Rez,” and Mr. Suarez replied he had “heard of him and seen him a few times.”⁶⁵ When DPD informed Mr. Suarez of Mr. Tolliver’s admitted involvement, Mr. Suarez responded, “I’m his older brother. I don’t think he would tell me anything about it.”⁶⁶

After his interview concluded, DPD placed Mr. Suarez in a holding cell.⁶⁷ Mr. Suarez broke down, and informed officers he wanted to make another statement.⁶⁸ In his second interview, Mr. Suarez confirmed Mr. Tolliver and Mr. May returned home and told him someone had been shot.⁶⁹ When Mr. Suarez asked them about it the next day, Mr. Tolliver told him, “Rez did it.”⁷⁰ Mr. Suarez identified a girl named Aaliyah, who lived in Country Village, as Mr. Miller’s girlfriend.⁷¹ Mr. Suarez recounted that all of the boys detained during the search of his house visit Aaliyah

⁶⁵ Id. at 9:53.

⁶⁶ Id.

⁶⁷ Tr. 3/30 at A-134.

⁶⁸ Id.

⁶⁹ State’s Ex. 3 at 4:00.

⁷⁰ Id.

⁷¹ Id. at 12:56.

to “smoke and stuff.”⁷² Mr. Suarez never observed Mr. Miller possessing a firearm.⁷³ Mr. Suarez further stated that his mother, Ms. May, did not allow “runaways” like Mr. Miller inside her house.⁷⁴

6. Quincy May’s interview

Mr. May denied seeing or speaking with Mr. Miller the night of the shooting.⁷⁵ Mr. May did not know how the ammunition found its way into his bedroom, but confirmed he knew about the ammunition’s existence and had touched it.⁷⁶ Mr. May initially denied any knowledge of the shooting, but eventually admitted to walking through Dover Park around the time of the shooting accompanied by Mr. Tolliver and Mr. Boyd.⁷⁷ He later amended his story to place Mr. Miller in the park instead of Mr. Boyd.⁷⁸ Mr. May maintained that he had no involvement in the shooting and left before it occurred.⁷⁹

⁷² Id. at 14:07.

⁷³ Id.

⁷⁴ Id.

⁷⁵ State’s Ex. 4 at 3:00.

⁷⁶ Id.

⁷⁷ Tr. 3/30 at A-135.

⁷⁸ Id.

⁷⁹ Id. at A-135-36.

7. Search of 406 Country Drive, Apartment B & Aaliyah Brown's statement

During Mr. May's questioning, he informed DPD he intended to visit a friend named Aaliyah Brown on the night of the shooting – the same girl identified as Mr. Miller's girlfriend by Mr. Suarez.⁸⁰ Ms. Brown resided at 406 County Drive, Apartment B.⁸¹ DPD went to that address on December 28, 2024, to contact Ms. Brown and search for any evidence connected to the shooting.⁸² The body-worn camera footage of the search began at 8:46 a.m.⁸³ During their search of the apartment, DPD found Mr. Miller asleep in Ms. Brown's room.⁸⁴ When DPD awoke Mr. Miller, he provided them with an alias and a birthdate of April 1, 2010.⁸⁵ An officer escorted Mr. Miller from the bedroom to the living room, and, after Mr. Miller provided unsatisfactory answers to officers' questions, an officer placed Mr. Miller in handcuffs.⁸⁶ Although significant portions of the officers' body-worn camera

⁸⁰ Id. A-137.

⁸¹ Id. at A-142.

⁸² Id. at A-142; see also State's Ex. 6-7.

⁸³ State's Ex. 6.

⁸⁴ See State's Ex. 6 at 15:01.

⁸⁵ State's Ex. 7 at 12:45.

⁸⁶ Id.

footage from the search of the apartment contain no audio, officers appear to have ascertained Mr. Miller's true identity at some point during their search.⁸⁷

DPD questioned Ms. Brown, who confirmed that all the boys detained during the search of 23 Stevenson Drive visited her house at various times.⁸⁸ She provided an alibi for Mr. Miller, affirming that the two spent Christmas Eve together and that Mr. Miller remained in her house during the timeframe the shooting occurred.⁸⁹ She confirmed Mr. Tolliver visited her the day after the shooting.⁹⁰ Ms. Brown's mother, Jennifer Smith, also stated Mr. Miller was in her house on December 24th, but could not confirm if he remained in the house during the time of the shooting.⁹¹ Surveillance footage from a Ring camera showed an unidentifiable individual wearing a dark-colored sweatshirt walking towards Ms. Brown's house at approximately 10:15 p.m. that night.

⁸⁷ Id.; see also Tr. 3/30 at A-146 (Detective Gunner Goad testified that during the search, Mr. Miller eventually provided his true name).

⁸⁸ State's Ex. 5 at 2:00.

⁸⁹ Id. at 5:30.

⁹⁰ Id.

⁹¹ Tr. 3/30 at A-150.

The search of Ms. Brown's bedroom yielded a pair of gray Nike winter gloves.⁹² The right glove tested positive for gunshot residue.⁹³ The left glove tested inconclusive.⁹⁴ The lead investigator in this case, Detective Goad, testified he did not know the handedness of any of the juveniles connected even tangentially to the shooting.⁹⁵

B. The procedural history and evidentiary hearings

A Kent County grand jury returned an indictment against Mr. Miller and Mr. Tolliver on June 2, 2025.⁹⁶ Mr. Miller stands charged of Murder in the First Degree, Conspiracy in the First Degree, Possession of a Deadly Weapon During the Commission of a Felony, and Possession of a Firearm by a Person Prohibited.⁹⁷ Mr. Miller filed the instant Petition for Reverse Amenability on August 19, 2025.⁹⁸ The Court held evidentiary hearings on the matter on March 30 and 31, 2026, and May 4, 2026. The Court heard oral argument on the matter on May 5, 2026.

⁹² Id. at A-147.

⁹³ Id. at A-165.

⁹⁴ Id.

⁹⁵ Tr. 5/4 at 96.

⁹⁶ D.I. 4

⁹⁷ Id.

⁹⁸ D.I. 16.

1. Dr. Alex Gould's Expert Testimony

Mr. Miller presented the testimony of Dr. Alex Gould, a forensic assessment psychologist.⁹⁹ Dr. Gould diagnosed Mr. Miller with conduct disorder, cannabis use disorder, anxiety disorder, and ADHD.¹⁰⁰ Dr. Gould noted he had difficulty evaluating Mr. Miller because of “his guarded presentation that was pronounced in [Dr. Gould's] time with him.”¹⁰¹ Dr. Gould explained a guarded presentation describes “someone who wasn't particularly open with his opinions, his feelings.”¹⁰² He testified Mr. Miller did not have a significant history of treatment before his arrest on these charges.¹⁰³

Dr. Gould opined Mr. Miller would benefit from continued treatment in the juvenile court system.¹⁰⁴ He opined the lack of juvenile-specific treatment options in an adult facility coupled with the stress of being in an adult detention center would negatively impact Mr. Miller's treatment.¹⁰⁵ Overall, he found Mr. Miller amenable to transfer to Family Court.

⁹⁹ Tr. 3/30 at A-14.

¹⁰⁰ Id. at A-18.

¹⁰¹ Id. at A-21.

¹⁰² Id.

¹⁰³ Id. at A32-33.

¹⁰⁴ Id. at A33-35.

¹⁰⁵ Id.

On cross-examination, Dr. Gould acknowledged Mr. Miller had “extensive attendance issues” regarding school.¹⁰⁶ At the time of his arrest, Mr. Miller had run away from home.¹⁰⁷ Dr. Gould and Mr. Miller spoke “about some past fights [he’d] been in that are in the records, and school fights.”¹⁰⁸ Dr. Gould also testified Mr. Miller had been expelled from school, “and there was an allegation that he brought a knife to school at one time.”¹⁰⁹ Since Mr. Miller entered Youth Rehabilitative Services’ custody (“YRS”), Dr. Gould noted “a couple instances of sanctions [and] some evidence of continued concern behaviorally. And also, some evidence of his ability to sustain good behavior.”¹¹⁰

Dr. Gould explained that, per his understanding, if Mr. Miller’s case remained in Superior Court, Mr. Miller would be transferred to an adult facility.¹¹¹ Dr. Gould conceded the limited time frame for treatment in the juvenile system, given Mr. Miller’s age, would be a concern particularly in light of the seriousness of the allegations.¹¹² Dr. Gould further opined Mr. Miller’s treatment needs would persist

¹⁰⁶ Id. at A-50.

¹⁰⁷ Id. at A-52-55.

¹⁰⁸ Id. at A-55.

¹⁰⁹ Id. at A-55-56.

¹¹⁰ Id. at A56-57.

¹¹¹ Id. at A-66.

¹¹² Id. at A-68.

beyond the age of 19, the age at which YRS would no longer be able to detain Mr. Miller.¹¹³ Dr. Gould did not have any material disagreement with the State's expert witness, Dr. Fairfax-Columbo.¹¹⁴

2. The State's presentation of amenability evidence

The State retained the services of Dr. Jaymes Fairfax-Columbo, a forensic behavioral analyst, to opine on Mr. Miller's competency, but solicited testimony from him regarding Mr. Miller's amenability.¹¹⁵ Dr. Fairfax-Columbo also found Mr. Miller to be "guarded."¹¹⁶ Based on Dr. Fairfax-Columbo's testing, he concluded Mr. Miller's guardedness would impact any doctor's ability to render an opinion on amenability.¹¹⁷ Ultimately, Dr. Fairfax-Columbo provided limited testimony on amenability because he did not conduct an amenability evaluation.¹¹⁸ Dr. Fairfax-Columbo testified, "I think Dr. Gould did a very good report with the limitations he had in terms of Mr. Miller not engaging with him a lot."¹¹⁹

¹¹³ Id. at A-71.

¹¹⁴ Id. at A-96.

¹¹⁵ Tr. 3/31 at B6-10.

¹¹⁶ Id. at B-15.

¹¹⁷ Id. at B-49.

¹¹⁸ Id. at B-56.

¹¹⁹ Id. at B-106.

The State also proffered the testimony of Tyler Pribulick, who drafted a reverse amenability report for YRS.¹²⁰ He determined Mr. Miller was not amenable to transfer because of the severity of the charges.¹²¹ He testified that, were Mr. Miller found amenable, he would remain in YRS custody until he turned 19.¹²² At that time, Mr. Miller would be released, and would only receive after care until he turned 21.¹²³ YRS cannot maintain jurisdiction beyond the age of 21.¹²⁴

Following oral argument, the Court instructed the parties to submit supplemental letters addressing the factors this Court must consider when evaluating a reverse amenability petition. Mr. Miller submitted his supplemental letter on May 20, 2026.¹²⁵ The State submitted its supplemental letter on June 1, 2026.¹²⁶

III. Standard of Review

Under 10 Del. C. § 1011(b), upon application by a defendant, this Court may transfer any case in which it possesses original jurisdiction over a child to Family

¹²⁰ Tr. 5/4 at 2-3.

¹²¹ Id. at 18.

¹²² Id. at 20.

¹²³ Id.

¹²⁴ Id.

¹²⁵ D.I. 53.

¹²⁶ D.I. 54.

Court if “the interests of justice would be best served by such transfer.” Upon such application, this Court must hold a reverse amenability hearing.¹²⁷ Under 10 Del. C. § 1011(b), the Court considers any factors “which, in the judgment of the Court are deemed relevant,” and:

“(1) the nature of the present offense and the extent and nature of the defendant’s prior record, if any; (2) the nature of past treatment and rehabilitative efforts and the nature of the defendant’s response thereto, if any; and (3) whether the interests of society and the defendant would be best served by trial in the Family Court or in Superior Court.

Additionally, the Court must evaluate “whether the State has made out a *prima facie* case against the juvenile.”¹²⁸ The Court considers “whether there is a fair likelihood that the defendant will be convicted of the crimes charged.”¹²⁹ “A real probability must exist that a reasonable jury could convict the juvenile based on the totality of the evidence, assuming that the evidence introduced at the hearing is unrebutted by the juvenile at trial.”¹³⁰

When a juvenile defendant stands charged of Possession of a Firearm During Commission of a Felony, 11 Del. C. § 1447A(f) requires the Court to find whether

¹²⁷ State v. Sharpe, 2020 WL 119647, at *2 (Del. Super. Jan. 10, 2020).

¹²⁸ Id.

¹²⁹ Id.

¹³⁰ State v. Harper, 2014 WL 1303012, at *5 (Del. Super. Mar. 31, 2014) (citing State v. Mayhall, 659 A.2d 790 (Del. Super. 1995), aff’d sub nom. Holder v. State, 692 A.2d 1181 (Del. 1997)).

there exists “proof positive or presumption great that the accused used, displayed, or discharged a firearm projectile weapon during the commission of a ... violent felony.” “The Court must hold an evidentiary hearing to determine if, ‘after a full hearing, there is good ground to doubt the truth of the accusation.’”¹³¹ If the Court finds good ground to doubt the truth of the accusation, “the Court in its discretion may conclude from the evidence that the State does not have a fair likelihood of convicting the accused of the offense.”¹³² If the Court does not so find, 11 Del. C. § 1447A(f) mandates this Court retain jurisdiction over that offense.

IV. Analysis

A. The State has established a *prima facie* case, but has not satisfied its burden under 11 Del. C. § 1447A(f)

As the State’s burden in establishing a *prima facie* case permits the State to rely on un rebutted evidence, the Court finds the State has met its *prima facie* burden. The record before the Court includes several individuals who testified to Mr. Miller’s involvement in the shooting. Ms. Sewell’s identification of the non-shooter at least somewhat matched Mr. Miller’s description. Coupled with DPD’s discovery of gloves with gunshot residue in the room in which Mr. Miller slept, the Court finds

¹³¹ State v. Rogers, 2023 WL 8803506, at *2 (Del. Super. Dec. 19, 2023) (quoting Sharpe, 2020 WL 119647, at *3).

¹³² Sharpe, 2020 WL 119647, at *3 (quoting In re Steigler, 250 A.2d 379, 382 (Del. 1969)).

the evidence introduced by the State could convince a reasonable jury of Mr. Miller's guilt if unrebutted.

Establishing "proof positive or presumption great" of Mr. Miller's use, display, or discharge of a firearm, however, requires something more. Based on the evidence adduced thus far, the Court has "good ground to doubt the truth of the accusation." The witness statements against Mr. Miller arise from the testimony of three brothers – Mr. Suarez, Mr. May, and Mr. Tolliver. All three brothers provided inconsistent statements to DPD, calling their credibility into question. Moreover, Mr. May and Mr. Tolliver eventually admitted to being two of the three boys seen in surveillance footage walking toward, and then away from, the area of the shooting. Mr. May originally identified Mr. Boyd – a boy with a similar hairstyle to Mr. Miller – as the third individual depicted in the surveillance footage. Bullets matching the shell casings used in the shooting were found in Mr. May's and Mr. Suarez's bedroom.

Ms. Brown and her mother, Ms. Smith, both placed Mr. Miller at their house on the day of the shooting. Ms. Brown maintained Mr. Miller was with her at the same time the shooting occurred. DPD found gloves with gunshot residue on them in Ms. Brown's room, and the State contends those gloves tie Mr. Miller to the shooting. Ms. Brown, however, stated that all the boys involved in this investigation

visited her home with regularity – including Mr. Tolliver the day before the December 28th search warrant execution.

Moreover, Ms. Sewell’s description of the shooter – a boy wearing a black coat with a blue surgical mask and a low hair cut – does not match the description any other witness gave of Mr. Miller. Mr. Miller, at least at the time of his interview with DPD four days after the shooting occurred, styled his hair more consistent with Ms. Sewell’s description of the non-shooter – “little dreads in his hair – little plaits in his hair.”¹³³ Ms. Sewell stated the shooter wore grey gloves, like those found in Ms. Brown’s room, but did not place those gloves on the boy matching Mr. Miller’s description. The State’s position that Mr. Miller pulled the trigger in this case does not match the account of the primary eyewitness to the shooting. That discrepancy certainly does not exonerate Mr. Miller, but it does cause the Court to doubt the veracity of the State’s position that Mr. Miller possessed a firearm during the commission of a felony – particularly when no firearm has been recovered and DPD located the only ammunition connected to this case in Mr. May’s bedroom.

Given the State has established its *prima facie* case, the Court will proceed to analyze the four factors outlined by 10 Del. C. § 1011(b). The Court finds the State has not met the “proof positive presumption great” standard required by 11 Del. C.

¹³³ Id. at 10:20.

§ 1447A(f). Accordingly, the Court does not find 11 Del. C. § 1447A(f) requires the Court to maintain jurisdiction over that charge, and will determine whether to transfer that charge to Family Court in accordance with 10 Del. C. § 1011(b).

B. The 10 Del. C. § 1011(b) factors weigh against transfer of the charges to Family Court

1. The nature of the present offense weighs against transfer

The first factor under 10 Del. C. § 1011(b) considers “the nature of the present offense and the extent and nature of the defendant’s prior record, if any.” Mr. Miller possesses a limited criminal history. He has never been adjudicated delinquent.¹³⁴ He has been arrested twice, once for Carrying a Concealed Deadly Instrument and Possession of a Weapon in a School Zone.¹³⁵

The nature of the present offenses, however, weighs heavily against transfer of the charges. The allegations against Mr. Miller are that he participated in a plan to lure Mr. Walker into a trap, and then shot Mr. Walker in the head ultimately resulting in Mr. Walker’s death. Given the severity of the allegations against Mr. Miller, the Court finds the first factor weighs against transfer.

¹³⁴ D.I. 53 at 2.

¹³⁵ D.I. 54 at 2.

2. Mr. Miller's treatment history weighs in favor of transfer

The second factor under 10 Del. C. § 1011(b) weighs “the nature of past treatment and rehabilitative efforts and the nature of the defendant’s response thereto, if any.” Mr. Miller received limited treatment before his arrest in this case. The State contends Mr. Miller’s “guardedness” and history of running away makes it more likely he would be resistant to treatment.¹³⁶ This factor, however, only considers **past** treatment and rehabilitative efforts. Given the dearth of treatment Mr. Miller has undergone, or been made available to him, the Court cannot find he has failed to respond positively to treatment in the past. This factor weighs in favor of transfer.

3. The interests of society are best served by this Court retaining jurisdiction

The third factor under 10 Del. C. § 1011(b) asks, “whether the interests of society and the defendant would be best served by trial in the Family Court or in the Superior Court.” Mr. Miller contends his ADHD diagnosis coupled with “an untreated trauma history” supports transfer to Family Court.¹³⁷ Dr. Gould testified the treatment options available to Mr. Miller in the juvenile setting would be more beneficial to him than in the adult setting.

¹³⁶ D.I. 54 at 2-3.

¹³⁷ D.I. 53 at 10.

The Court must reconcile Mr. Miller's need for treatment with society's interest in safety. The Court's concern, given Mr. Miller's age and Dr. Gould's testimony regarding the limited timeframe for treatment in the juvenile setting, rests on the impracticality of assuming Mr. Miller's treatment needs could be met before he ages out of YRS's jurisdiction. At almost 17 years of age at the time of this decision, Mr. Miller can only remain in YRS custody until he turns 19. Setting aside the serious allegations Mr. Miller faces, he has demonstrated a history of running away from home, disregarding authority, and, at the very least, associating with individuals engaged in criminal behavior. To expect Mr. Miller to correct that behavior in such an abbreviated timeframe, particularly given the difficulty for a treatment provider engaging with Mr. Miller's guarded behavior as testified to by both doctors, qualifies as unreasonably optimistic.

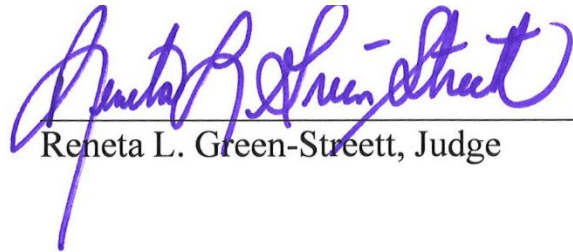
The Court does not have confidence that such a short time frame for rehabilitation would alleviate any concerns about Mr. Miller's future behavior. Accordingly, society's interest weighs against transfer. Although Mr. Miller may prefer the potential ramifications of a transfer back to Family Court, the Court also finds his interests are best served by keeping him under this Court's jurisdiction, so that his treatment needs can be met beyond the time limit imposed by YRS. Thus, this factor weighs against transfer. The Court does not find any factors under 10

Del. C. § 1011(b)'s "catch-all provision" weigh strongly in favor of or against transfer.

V. Conclusion

However thinly, the State has established a *prima facie* case against Mr. Miller. The State has not provided proof positive or presumption great that Mr. Miller used, displayed, or discharged a firearm – a failure, on this evidentiary record, that undercuts many of the allegations against Mr. Miller. With that admonition, having weighed the obligatory factors set forth under 10 Del. C. § 1011(b), the Court finds transfer back to Family Court inappropriate. Accordingly, Mr. Miller's Petition for Reverse Amenability is **DENIED**.

IT IS SO ORDERED.



Reneta L. Green-Streett, Judge