

§706-606. Defendant respectfully submits that application of the HRS §706-606 factors does not warrant the imposition of consecutive terms of imprisonment.

1. The nature and circumstances of the offenses and the history and characteristics of the defendant. The Court presided over the jury trial and is apprised of the evidence underlying the nature and circumstances of the offenses. Nevertheless, the nature and circumstances of the offenses must not be evaluated in a vacuum. HRS §706-606(1) makes clear that the history and characteristics of a defendant shall be considered and given weight.

Other than a traffic matter over a decade ago, Mr. Green has no history of prior criminal activity. The State makes light of this by asserting that this is to be expected of an individual with a military career. A closer evaluation of Mr. Green's military career suggests that significant weight and deference should be afforded Mr. Green for his service to our country. Upon graduation from high school, Mr. Green served in the Navy for more than a decade from June 2001, until March 2014, when he was discharged due to this case.

During his military career, Mr. Green obtained the rank of an E5 Petty Officer Second Class and was an Information Systems Technician. Petty Officer Second Class personnel are self-sufficient leaders that know their work and responsibilities without being told what to do. During his many years in the Navy, Mr. Green was deployed a couple of times.

Mr. Green's military career must be afforded significant weight bearing on his characteristics as an individual. Mr. Green has the tools to ensure that he will never again subject himself to the criminal justice system in this capacity.

2. The need for the sentence imposed. In light of Mr. Green's history and characteristics, anything more than an indeterminate term of twenty (20) years would serve no other purpose than to impose raw punishment. Having never been in custody before and having had a great military career, the seriousness of the offenses is not lost on Mr. Green.

Furthermore, these offenses occurred almost a decade ago. Although Mr. Green has been in custody, there is no indication that Mr. Green presents a danger to the complaining witnesses and the public. There have been no allegations that Mr. Green has attempted to contact and intimidate the complaining witnesses, or any other person associated with this case.

Finally, it is expected that the department of public safety will provide Mr. Green the appropriate rehabilitative treatment and nothing more than a 20-year indeterminate term of imprisonment is necessary.

Accordingly, it is respectfully requested that this Honorable Court deny State's Amended Motion for Consecutive Terms of Imprisonment filed April 27, 2022.

DATED: Honolulu, Hawaii, July 17, 2022.

/s/ Harrison L. Kiehm
HARRISON L. KIEHM
ATTORNEY FOR DEFENDANT