

STATE OF RHODE ISLAND  
PROVIDENCE, SC. SUPERIOR COURT

KEITH NUNES

v.

STATE OF RHODE ISLAND

-

**APPLICATION FOR POST-CONVICTION RELIEF**

**INTRODUCTION**

This Application for Post-Conviction Relief seeks the immediate release of KEITH NUNES from incarceration at the Adult Correctional Institutions, under the control and custody of the Rhode Island Department of Corrections (RIDOC), to parole supervision as directed by the Rhode Island Parole Board. KEITH NUNES has been incarcerated for more than 22 years. He is now being unlawfully detained despite his eligibility for parole and immediate release to the community under R.I.G.L. §13-8-13(e), hereinafter referred to as “the Youthful Offenders Act” or “the Act,” and his satisfaction of the standards for parole acknowledged in a unanimous decision of the Rhode Island Parole Board to parole him. All of these actions are due to the arbitrary, unlawful, and unconstitutional actions of RIDOC and the acquiescence of the Rhode Island Parole Board in a miscarriage of justice and an unlawful assertion of authority.

**Your Applicant states as follows:**

1. KEITH NUNES is a prisoner presently in the custody of the Rhode Island Department of Corrections (RIDOC).
2. KEITH NUNES is confined at the Adult Correctional Institutions, Cranston, Rhode Island.
3. KEITH NUNES is held by the State of Rhode Island.

4. KEITH NUNES is incarcerated following his conviction in *State v. KEITH NUNES*, case number P1-1999-2961AG in the Superior Court of the State of Rhode Island.
  - a. KEITH NUNES's controlling sentence was life imprisonment upon his conviction for murder in the first degree. He was sentenced on June 29, 2000, for offenses committed June 13, 1999, with 10-year sentences for remaining counts to be served concurrent to each other and consecutive to the life sentence and a ten-year suspended sentence. See Case Summary for P1-1999-2961AG, on the public portal of the Rhode Island state judiciary, attached hereto and incorporated herein as Exhibit 1.
5. KEITH NUNES appealed his conviction to the Rhode Island Supreme Court, and it was affirmed by the Court. *See State v. Keith Nunes*, 788 A.2d 460 (R.I. 2002).
6. KEITH NUNES has exhausted all state appellate remedies available to him pursuant to the Rhode Island Rules of Criminal Procedure and its statutory and constitutional provisions.
7. The Superior Court has jurisdiction to hear the within Application pursuant to R.I.G.L. §§ 10-9.1-1, 10-9.1-2, *et seq.*
8. KEITH NUNES was born on April 17, 1981. At the time NUNES committed the aforesaid offenses on June 13, 1999, he was 18 years and 2 months old.
9. KEITH NUNES is now over 40 years old. He has been incarcerated virtually his entire adult life.
10. Parole eligibility is prescribed by statute.

11. Parole is an essential part of the Rhode Island criminal justice system. It offers an incentive to inmates to rehabilitate themselves with a goal of becoming contributing and productive members of society.
12. Any prison sentence (excluding sentences of life without parole) imposed in the state courts of Rhode Island that exceeds six months “shall be subject to the parole board[.]” R.I.G.L. § 13-8-8. The Parole Board chairperson and Parole Board members are appointed by the Governor of Rhode Island. See R.I.G.L. §§ 13-8-1 and 13-8-3.
13. Under Rhode Island law, R.I.G.L. § 13-8-13(a)(3), an inmate sentenced to life imprisonment for first degree murder committed after June 30, 1995, and before July 1, 2015, is considered eligible for parole after serving twenty (20) years of that sentence.
14. Under Rhode Island law, R.I.G.L. § 13-8-9 (a), an inmate serving a term of 10 years (120 months) is considered to be eligible for parole after serving one third (1/3) of the sentence, or three years and four months (40 months).
15. R.I.G.L. § 13-8-10 specifically provides that when a prisoner is serving more than one sentence, “a parole permit may issue whenever he or she has served a term equal to one third (1/3) *of the aggregate time* which he or she shall be liable to serve under his or her several sentences.” (Emphasis added).
16. Rhode Island’s statutory scheme for parole is set forth in R.I.G.L. chapter 13-8. As set forth in that chapter, the decision of the Parole Board to release an inmate on parole entitles the inmate “to be at liberty during the remainder of his or her term of sentence upon any terms and conditions that the board may prescribe.” R.I.G.L. §13-8-9(a).
17. Among the criteria which the Parole Board is statutorily charged to find as a condition for granting a parole permit is “[t]hat there is a reasonable probability that the prisoner, if

released, would live and remain at liberty without violating the law” and “[t]hat the prisoner can properly assume a role in the city or town in which he or she is to reside.” R.I.G.L. §13-8-14(a)(3), (4).

18. Under Rhode Island’s statutory parole system, release on parole can only mean release—under terms and conditions prescribed by the Parole Board—from the physical custody of RIDOC. “Parole to a consecutive sentence”—which means remaining in prison—is contrary to and not contemplated by Rhode Island’s statutory parole system. It requires the Parole Board to consider mandatory standards for parole that are meaningless in the context of “parole” to continued incarceration by RIDOC, and mandates multiple considerations of parole, to the prejudice of the inmate, the Parole Board, and all members of the community who are required to be notified and entitled to be heard whenever parole is considered.
19. Upon information and belief, at all times material hereto, RIDOC by practice calculates the projected initial parole eligibility date for each person committed to its custody for a sentence in excess of six months and periodically adjusts the calculation to reflect sentence modifications due to additional and/or corrected sentences and/or “good time” adjustments.
20. Upon information and belief, the Parole Board has taken the position that it is bound by determinations of RIDOC as to parole eligibility dates.
21. Upon information and belief, the Parole Board has declined to substitute its judgment concerning parole eligibility dates for that of RIDOC even when RIDOC has taken inconsistent and arbitrary positions thereon.
22. The decision of the Parole Board to rely, without question, upon RIDOC’s calculation of “parole eligibility dates” regardless of the mandates of law is an abdication of its exercise

of control pursuant to R.I.G.L. §13-8-8 over the sentence of every person convicted and sentenced to be imprisoned at the ACI for a period of more than six months.

23. Upon information and belief, prior to 2018, it was the practice and policy of RIDOC, pursuant to the requirement to aggregate sentences under R.I.G.L. § 13-8-10, to calculate an initial parole eligibility date by adding the minimum eligibility date of a life sentence to the minimum eligibility date of the consecutive term(s) of years. *See* R.I.G.L. § 13-8-10.
24. Upon information and belief, RIDOC employed sentence aggregation to determine initial parole eligibility date for decades.
25. Upon information and belief, under the requirement to aggregate sentences, NUNES' sentence required him to serve a total of 23 years 4 months before being eligible for parole (20 years for the controlling life sentence and 40 months for the consecutive ten-year sentence). Attached hereto and incorporated herein as Exhibit 2 is an explanation of the calculation provided to another inmate by the Parole Coordinator in 2015.
26. Upon information and belief, using the aggregated sentence calculation from NUNES' original incarceration, NUNES' initial parole eligibility date would have been on or about October 14, 2022.
27. Upon information and belief, commencing in or about 2018, RIDOC decided to alter its internal method of calculating parole eligibility dates for inmates serving more than one sentence, where one of the sentences was for life, by "disaggregating" the sentences so as to determine an initial "parole eligibility date" for the "primary" or "controlling" life sentence, and thereby requiring an inmate with consecutive sentences to first be paroled from the controlling life sentence to serve the consecutive sentence, with no possibility of release from incarceration until the inmate has been approved for parole at least twice.

28. Under this altered method of calculating parole eligibility dates, an inmate serving a life sentence would first have to be granted parole under the life sentence, and then be paroled to his consecutive sentence. In order to be considered for release from physical custody of RIDOC, the inmate paroled from his life sentence would then be required to serve the minimum eligibility period of the consecutive sentence before again seeking parole.
29. Upon information and belief, RIDOC and the Parole Board applied the “disaggregation method” to determine that NUNES would first be eligible for parole from his life sentence to his consecutive 10-year sentence once he served at least 20 years on the life sentence, being approximately June 2019.
30. On June 17, 2019, the Parole Board first considered and unanimously approved NUNES for parole from his life sentence to begin serving his consecutive 10-year sentence effective July 17, 2019. The Board’s minutes of its consideration of NUNES are attached hereto and incorporated herein as Exhibit 3
31. According to the minutes, the Parole Board will not consider NUNES for release to the community until November 1, 2022, on the basis that he is required to serve at least one-third of his consecutive 10-year sentence before he is eligible for consideration of parole to the community. Exhibit 3.
32. However, on July 6, 2021, the General Assembly enacted, and the Governor signed into law, Public Law 2021, chapter 162, Article 13 §3, effective July 6, 2021, which amended R.I.G.L. § 13-8-13, to add a new subparagraph (e), hereinafter referred to as “the Youthful Offenders Act” or “the Act,” which provides:  
  
*(e) Any person sentenced for any offense committed prior to his or her twenty-second birthday, other than a person serving life without parole, shall be eligible for parole review and a parole permit may be issued after the person has served no fewer than twenty (20) years’ imprisonment unless the person is entitled to earlier*

parole eligibility pursuant to any other provisions of law. This subsection shall be given prospective and retroactive effect for all offenses occurring on or after January 1, 1991.

R.I.G.L. § 13-8-13(e) (emphasis added).

33. The express terms of the Youthful Offenders Act provide that, notwithstanding any other provision, and excepting only individuals serving a sentence of life without parole, any person, serving any sentence, for an offense committed before that person reached the age of 22 years old, is entitled to parole consideration after 20 years (unless they are already entitled to an earlier parole date by their sentence).
34. In enacting the Youthful Offenders Act, the legislature intended to give youthful offenders, including juveniles and young adults such as NUNES, an opportunity to demonstrate that that they have matured from the person who committed the underlying crimes in their early years. Before passing the Act shortening initial parole to 20 years for individuals committing offenses up to age 22, the General Assembly held extensive hearings on earlier versions of the Act, 2021-H 5144<sup>1</sup> and 2021-S0333,<sup>2</sup> which would have shortened the first parole date to 15 years, limited to individuals committing offenses up to age 18.
35. Such a law is supported by Roper v. Simmons, 543 U.S. 551, 569-70 (2005) and its progeny, Graham v. Florida, 560 U.S. 48 (2010), and Miller v. Alabama, 567 U.S. 460 (2012), where the United States Supreme Court recognized that juveniles generally lack the culpability of adult offenders because:

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<sup>1</sup> <https://legiscan.com/RI/bill/H5144/2021>. The full House Committee hearing, including the testimony of the primary sponsor, Representative Casimiro, can be accessed at <https://upriseri.com/juvenile-offender-parole-act/>, accessed 12/7/21.

<sup>2</sup> <https://legiscan.com/RI/bill/S0333/2021>

- a. “[a] lack of maturity and an underdeveloped sense of responsibility are found in youth more often than in adults and are more understandable among the young. These qualities often result in impetuous and ill-considered actions and decisions.” Roper at 569.
- b. juvenile offenders are “more vulnerable or susceptible to negative influences and outside pressures, including peer pressure” and which “is explained in part by the prevailing circumstance that juveniles have less control, or less experience with control, over their own environment.”
- c. “the character of a juvenile is not as well formed as that of an adult. The personality traits of juveniles are more transitory, less fixed.” Id. at 570.

As a result, “these differences render suspect any conclusion that a juvenile falls among the worst offenders. The susceptibility of juveniles to immature and irresponsible behavior means ‘their irresponsible conduct is not as morally reprehensible as that of an adult.’” Roper at 570. “Roper and Graham emphasized that the distinctive attributes of youth diminish the penological justifications for imposing the harshest sentences on juvenile offenders, even when they commit terrible crimes.” Miller at 472.

36. Such a law is part of a developing trend acknowledging the results of “brain science and psychological research [that] shows that young adults, whose brains are still developing, are similarly less culpable and more capable of reform than older adults, and thus ought be treated more like juveniles than adults when they commit crimes.” “Consideration of Youth for Young Adults,” Juvenile Sentencing Project, Quinnipiac University School of Law (January 2020), accessed on 1/3/2022 at [https://juvenilesentencingproject.org/wp-content/uploads/model\\_reforms\\_consideration\\_of\\_youth\\_for\\_young\\_adults.pdf](https://juvenilesentencingproject.org/wp-content/uploads/model_reforms_consideration_of_youth_for_young_adults.pdf),



and authorities cited therein.

37. NUNES meets all of the terms of the Youthful Offenders Act, in that he has served at least 20 years' imprisonment on sentences for offenses committed prior to his twenty-second birthday.
38. After the passage of the Youthful Offenders Act, NUNES, through his counsel, specifically requested that the Parole Board reconvene and approve his parole to the community. The request is attached hereto as Exhibit 4 and incorporated herein.
39. Notwithstanding the foregoing, on information and belief, RIDOC has taken the position that the Youthful Offenders Act merely shortens the time—if it is more than 20 years—that a youthful offender must serve before consideration of parole from the *first* or life sentence to any consecutive sentence and must thereafter serve all consecutive sentences in accordance with the adult parole eligibility provisions without regard to the provisions of the Act.
40. Attached hereto and incorporated herein as Exhibit 5 is a copy of a letter to a currently incarcerated youthful offender describing RIDOC's interpretation of the impact of the Act on the determination of parole eligibility. In the letter, the Parole Coordinator for RIDOC describes the Act as follows: "The new law states youthful offenders must serve 20 years on the [life] sentence before being eligible for parole (as opposed to 25 years)." These words do not appear in the Act at all.
41. Upon information and belief, the Parole Board has acquiesced in and accepted RIDOC's interpretation of the Youthful Offenders Act as applying only to shorten, if at all, an initial life sentence from 25 to 20 years.

42. According to RIDOC's interpretation, the Act merely shortens the initial disaggregated parole eligibility date for those youthful offenders sentenced to life for a crime committed on or after July 1, 2015, when the minimum term to serve before parole was increased from 20 to 25 years.
43. According to RIDOC's interpretation, the Act does not apply to shorten consecutive sentences to a single initial parole eligibility of 20 years for consideration of parole to the community.
44. As a direct result thereof, the Parole Board rejected NUNES' request for parole consideration under the Act. The rejection is attached hereto as Exhibit 6 and incorporated herein.
45. The Youthful Offender Act by its express terms "shall be given prospective and retroactive effect for all offenses occurring on or after January 1, 1991."
46. The interpretation and application of the Act by RIDOC and the Parole Board is absurd and illogical, contrary to the express terms of the Act and effectively operates to nullify its terms and defeat its purposes.
47. The interpretation and application of the Act by RIDOC and the Parole Board renders nugatory the Act's impact for any juvenile life sentence crime committed before July 1, 2015 notwithstanding its explicit retroactive effect to 1991.
48. In its interpretation of the Act, RIDOC has also maintained and extended its unlawful disaggregation of sentences to determine parole eligibility.
49. The interpretation of RIDOC and the Parole Board, to limit the Act to the "first" or life sentence, instead of "any sentence" as set forth in the Act, defeats and denies the purpose of the Act, directly contravenes its terms, and is arbitrary and capricious.

50. The interpretation of RIDOC and the Parole Board, to limit the Act to the “first” or life sentence, instead of “any sentence,” appears to be a consequence of RIDOC’s recent determination that life sentences cannot be aggregated with term sentences for purposes of calculating an initial parole eligibility date.
51. RIDOC’s determination to disaggregate life and consecutive sentences for adult offenders, even if it were correct, has no applicability to the determination of a parole eligibility date under the Youthful Offenders Act, in that the Youthful Offenders Act supersedes any contrary provision applicable to adult offenders, because it is self-contained, unambiguous, and of later date.
52. In addition, as set forth above, RIDOC’s determination to disaggregate life and consecutive sentences of adult offenders is not correct, in that the disaggregation decision is itself arbitrary, capricious, and contrary to the letter and intent of the parole statutes.
53. The Rhode Island Superior Court has previously addressed and rejected RIDOC’s disaggregation of life and consecutive sentences in order to calculate initial parole eligibility date in McMaugh v. State, PM-2017-05673; Eddie Martinez v. State, PM-2020-05568; and Francisco Martinez v. State, PM-2021-03544 (petition for certiorari pending).
54. In reviewing a statutory parole system in Massachusetts, the Massachusetts Supreme Judicial Court rejected the statutory interpretation there formally adopted by the Massachusetts Parole Board and here unilaterally applied by RIDOC, concluding that Massachusetts law—which contains similar language to Rhode Island concerning aggregation of sentences—“requires the board to establish a single parole eligibility date.” Dinkins v. Massachusetts Parole Board, 486 Mass. 605, 609 (Mass. 2021). “The [Parole Board’s] regulation, by exempting sentences consecutive to a life sentence from the

aggregation rule, contravenes the plain meaning” of the Massachusetts statutory scheme.  
Id. at 610-611.

55. Because NUNES in 2019 was determined by the Board to satisfy all of the requirements for parole and because NUNES qualifies for treatment as a Youthful Offender, NUNES was entitled to immediate release on parole to the community when the Act took effect.
56. As a direct result of the Parole Board’s failure to apply the Youthful Offenders Act, and the application of the “disaggregation method” of sentence calculation, in the absence of relief from this Court, NUNES will be required to serve until approximately November 1, 2022, before the Board and RIDOC consider him eligible for parole to the community.
57. As of November 1, 2022, NUNES will have served at least 23 years and 4 months in prison, notwithstanding the Act’s directive to treat youthful offenders as eligible for parole after 20 years.
58. RIDOC’s unlawful actions, to which the Parole Board has acquiesced, unlawfully require NUNES to remain in custody until at least November 1, 2022, notwithstanding the Parole Board’s unanimous determination that he has already satisfied conditions of parole and has already served a minimum of 20 years in prison for offenses committed while he was a youth.
59. As a direct result, NUNES is being unlawfully incarcerated and is entitled to immediate release to the community on parole.
60. NUNES is unlawfully detained in violation of the laws of the State of Rhode Island in that he is entitled to immediate release under the laws governing parole.
61. NUNES’ continued incarceration constitutes an unreasonable seizure in violation of the Fourth Amendment of the United States Constitution, and Article I, Section 6 of the Rhode

Island Constitution.

62. NUNES' continued incarceration deprives him of due process, in violation of the Fifth and Fourteenth Amendments of the United States Constitution, and Article I, Section 10 of the Rhode Island Constitution.
63. RIDOC's alteration of NUNES' terms of sentence so as to increase the amount of time he must serve before consideration for parole to the community is cruel and unusual punishment, in violation of the Eighth Amendment of the United States Constitution and Article I, Section 8 of the Rhode Island Constitution.
64. RIDOC's calculation of his parole eligibility so as to increase the amount of time NUNES must serve before consideration for parole to the community denies him Equal Protection of the law, in violation of the Fourteenth Amendment of the United States Constitution and Article I, Section 2 of the Rhode Island Constitution.

WHEREFORE, KEITH NUNES prays this court to

- a. Find that he has been unlawfully detained beyond the terms of his sentence, in violation of the laws of the State of Rhode Island governing parole and the United States and Rhode Island Constitutions;
- b. Declare that the Youthful Offenders Act, R.I.G.L. § 13-8-13(e), applies to establish an initial single parole eligibility date of no more than 20 years as to individuals serving any and all sentences (other than life without parole) for offenses committed before their twenty-second birthday, whether concurrent or consecutive;
- c. Grant his immediate release to the community, pursuant to the recommendation, and subject to the supervision, of the Rhode Island Parole Board;
- d. Grant such further relief as this Court deems just and proper.

KEITH NUNES  
By his attorneys,

COOPERATING ATTORNEYS,  
AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION OF RHODE ISLAND

/s/ Lisa S. Holley  
Lisa S. Holley, Esq. (#6606)  
Lisa Holley Law  
536 Atwells Ave., 2nd Fl.  
Providence, RI 02909  
(401) 400-2850  
lisa@lisaholleylaw.com

/s/ Lynette Labinger  
Lynette Labinger (#1645)  
128 Dorrance Street, Box 710  
Providence, RI 02903  
(401) 465-9565  
LL@labingerlaw.com

/s/Sonja Deyoe  
Sonja L Deyoe (#6301)  
395 Smith Street  
Providence, RI 02908  
(401) 864-5877  
SLD@the-straight-shooter.com

### VERIFICATION OF KEITH NUNES

KEITH NUNES, first being duly sworn, hereby states under oath as follows:

1. I am the Applicant in the above-captioned matter.
2. I have read the within Application for Post-Conviction Relief.
3. The statements in the Application are true to the best of my knowledge, information, and belief.

\_\_\_\_\_  
KEITH NUNES

STATE OF RHODE ISLAND  
PROVIDENCE, SC

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me a notary public, personally appeared KEITH NUNES, personally known to the notary or proved to the notary satisfactory evidence of identification, which was a Prisoner ID card, to be the person who signed the preceding or attached document in my presence, and who swore or affirmed to the notary that the contents of the document are truthful and accurate to the best of his or her knowledge and belief.

\_\_\_\_\_  
Notary Public

**Providence/Bristol County Superior Court**

**Case Summary**

**Case No. P1-1999-2961AG**

**KEITH NUNES**

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Location: **Providence/Bristol County Superior Court**

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Judicial Officer: **Krause, Associate Justice Robert D.**

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Filed on: **06/14/1999**

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**Case Information**

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<b>Offense</b>	<b>Statute</b>	<b>Degree</b>	<b>Offense Date</b>	<b>Filed Date</b>	<b>Case Type: Felony - Gun Calendar - Indictment</b>
<b>Jurisdiction: Providence Police Department</b>					<b>Case Status: 06/29/2000 Closed</b>
1. MURDER I	11-23-1	F	06/13/1999	06/14/1999	
Arrest Date: 06/14/1999					
Offense Reports Agency: Providence Police Department 325 Washington Street Providence, RI, 02903					
2. ASSLT W/INT MURDER	CONV	F	06/13/1999	06/14/1999	
Arrest Date: 06/14/1999					
Offense Reports Agency: Providence Police Department 325 Washington Street Providence, RI, 02903					
3. FELONY ASSAULT	11-5-2(a)	F	06/13/1999	06/14/1999	
Arrest Date: 06/14/1999					
Offense Reports Agency: Providence Police Department 325 Washington Street Providence, RI, 02903					
<i>Filed As: ASSLT W/INT MURDER Original Statute: CONV Original Degree: F Amended Date: 06/13/2001</i>					
4. FELONY ASSAULT	11-5-2(a)	F	06/13/1999	06/14/1999	
Arrest Date: 06/14/1999					
Offense Reports Agency: Providence Police Department 325 Washington Street Providence, RI, 02903					
<i>Filed As: ASSLT W/INT MURDER Original Statute: CONV Original Degree: F Amended Date: 06/13/2001</i>					
5. FELONY ASSAULT	11-5-2(a)	F	06/13/1999	06/14/1999	
Arrest Date: 06/14/1999					



## Case Summary

Case No. P1-1999-2961AG

Offense	Statute	Degree	Offense Date	Filed Date
Offense Reports Agency: Providence Police Department 325 Washington Street Providence, RI, 02903  Filed As: ASSLT W/INT MURDER Original Statute: CONV Original Degree: F Amended Date: 06/13/2001				
6. CONSPIRACY	11-1-6	M	06/13/1999	06/14/1999
Arrest Date: 06/14/1999  Offense Reports Agency: Providence Police Department 325 Washington Street Providence, RI, 02903				
7. CARRY WEAPON/CRIME OF VIOLENCE	CONV	F	06/13/1999	06/14/1999
Arrest Date: 06/14/1999  Offense Reports Agency: Providence Police Department 325 Washington Street Providence, RI, 02903				
8. CARRY PISTOL W/O LICENSE	11-47-8(a)	F	06/13/1999	06/14/1999
Arrest Date: 06/14/1999  Offense Reports Agency: Providence Police Department 325 Washington Street Providence, RI, 02903				
9. DRIVE-BY SHOOTING	11-47-61	F	06/13/1999	06/14/1999
Arrest Date: 06/14/1999  Offense Reports Agency: Providence Police Department 325 Washington Street Providence, RI, 02903				
11. DISORDERLY CONDUCT	11-45-1(a)	M	06/13/1999	06/14/1999
Arrest Date: 06/14/1999  Offense Reports Agency: Providence Police Department 325 Washington Street Providence, RI, 02903				
101. MURDER I	11-23-1	F	06/13/1999	06/14/1999
Arrest Date: 06/14/1999  Offense Reports Agency: Providence Police Department 325 Washington Street Providence, RI, 02903				

## Statistical Closures

## Case Summary

Case No. P1-1999-2961AG

06/29/2000 Case Disposed

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Party Information

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**Plaintiff** State of Rhode Island
**Defendant** NUNES, KEITH  
 DOB: 04/17/1981  
 SID: 09904687

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Dispositions

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09/01/1999 **Disposition** (Judicial Officer: Krause, Associate Justice Robert D.)  
 101. MURDER I  
 True Bill Signed

04/17/2000 **Disposition** (Judicial Officer: Krause, Associate Justice Robert D.)  
 6. CONSPIRACY  
 Dismissed By Judge

04/18/2000 **Disposition** (Judicial Officer: Krause, Associate Justice Robert D.)  
 7. CARRY WEAPON/CRIME OF VIOLENCE  
 Dismissed 48A

04/18/2000 **Disposition** (Judicial Officer: Krause, Associate Justice Robert D.)  
 8. CARRY PISTOL W/O LICENSE  
 Found Guilty By Jury

04/18/2000 **Disposition** (Judicial Officer: Krause, Associate Justice Robert D.)  
 11. DISORDERLY CONDUCT  
 Dismissed 48A

04/18/2000 **Disposition** (Judicial Officer: Krause, Associate Justice Robert D.)  
 2. ASSLT W/INT MURDER  
 Found Guilty By Jury

04/18/2000 **Disposition** (Judicial Officer: Krause, Associate Justice Robert D.)  
 1. MURDER I  
 Found Guilty By Jury

06/29/2000 **Sentence** (Judicial Officer: Krause, Associate Justice Robert D.)  
 1. MURDER I  
 Criminal Sentence  
 Condition - Adult:  
 1. Life, Judge: JUDGE KRAUSE , 06/29/2000, Active 06/29/2000  
 Condition - Adult:  
 1. Total Assessments, Judge: JUDGE KRAUSE \$3326.80, 06/29/2000, Active 06/29/2000

06/29/2000 **Sentence** (Judicial Officer: Krause, Associate Justice Robert D.)  
 2. ASSLT W/INT MURDER  
 Criminal Sentence  
 Condition - Adult:  
 1. Term to Serve, Judge: JUDGE KRAUSE concurrent with counts 3-5 but consecutive to count 1, 10Y  
 06/29/2000, Active 06/29/2000

06/29/2000 **Sentence** (Judicial Officer: Krause, Associate Justice Robert D.)  
 3. FELONY ASSAULT  
 Criminal Sentence  
 Condition - Adult:  
 1. Term to Serve, Judge: JUDGE KRAUSE , 10Y 06/29/2000, Active 06/29/2000

06/29/2000 **Sentence** (Judicial Officer: Krause, Associate Justice Robert D.)

Case Summary

Case No. P1-1999-2961AG

4. FELONY ASSAULT

Criminal Sentence

Condition - Adult:

1. Term to Serve, Judge: JUDGE KRAUSE , 10Y 06/29/2000, Active 06/29/2000

06/29/2000 **Sentence** (Judicial Officer: Krause, Associate Justice Robert D.)

5. FELONY ASSAULT

Criminal Sentence

Condition - Adult:

1. Term to Serve, Judge: JUDGE KRAUSE , 10Y 06/29/2000, Active 06/29/2000

06/29/2000 **Sentence** (Judicial Officer: Krause, Associate Justice Robert D.)

8. CARRY PISTOL W/O LICENSE

Criminal Sentence

Condition - Adult:

1. Suspended, Judge: JUDGE KRAUSE , 10Y 06/29/2000, Active 06/29/2000

Condition - Adult:

1. Probation, Judge: JUDGE KRAUSE consecutive to all counts, 10Y 06/29/2000, Active 06/29/2000

06/29/2000 **Sentence** (Judicial Officer: Krause, Associate Justice Robert D.)

9. DRIVE-BY SHOOTING

Criminal Sentence

Condition - Adult:

1. Suspended, Judge: JUDGE KRAUSE , 10Y 06/29/2000, Active 06/29/2000

Condition - Adult:

1. Probation, Judge: JUDGE KRAUSE consecutive to all other counts, 10Y 06/29/2000, Active 06/29/2000

06/13/2001 **Disposition** (Judicial Officer: Krause, Associate Justice Robert D.)

3. FELONY ASSAULT

Found Guilty by Jury to Lesser Offense

06/13/2001 **Disposition** (Judicial Officer: Krause, Associate Justice Robert D.)

4. FELONY ASSAULT

Found Guilty by Jury to Lesser Offense

06/13/2001 **Disposition** (Judicial Officer: Krause, Associate Justice Robert D.)

5. FELONY ASSAULT

Found Guilty by Jury to Lesser Offense

06/13/2001 **Disposition** (Judicial Officer: Krause, Associate Justice Robert D.)

9. DRIVE-BY SHOOTING

Found Guilty By Jury

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Case Events

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06/14/1999 Event Action  
06/14/1999 Type of Bail Set  
06/14/1999 Case Initiation  
06/28/1999 Event Action  
07/12/1999 Event Action  
07/12/1999 Docket Note  
07/12/1999 Type of Bail Set  
09/01/1999 Indictment Filed  
09/13/1999 Receipt for Grand Jury Tapes  
09/22/1999 Event Action  
09/22/1999 Defendant Arraigned and Pleads Not Guilty  
09/22/1999 Defendant Appears

Case Summary

Case No. P1-1999-2961AG

09/22/1999	Type of Bail Set
09/29/1999	Event Action
09/29/1999	Event Reason
09/30/1999	Receipt for Grand Jury Tapes
10/06/1999	Event Action
10/06/1999	Entry of Appearance
10/07/1999	Motion for Discovery and Inspection
10/07/1999	Motion for Exculpatory Evidence
10/07/1999	Arbitration - Motion for Enlargement of Time
10/22/1999	Event Action
10/22/1999	Event Reason
10/25/1999	Event Action
10/25/1999	Event Reason
11/15/1999	Event Action
11/15/1999	Event Reason
11/17/1999	Request for Discovery and Alibi
11/17/1999	Response to Defendant's Request for Discovery and Inspection
11/29/1999	Event Action
11/29/1999	Event Reason
11/29/1999	Remanded to the Adult Correctional Institution
12/14/1999	Motion Party: Defendant NUNES, KEITH
01/05/2000	Motion for Continuance Party: Defendant NUNES, KEITH
01/07/2000	Pending Further Investigation
01/07/2000	Motion to Compel Party: Plaintiff State of Rhode Island
01/07/2000	Response to Defendant's Request for Discovery and Inspection Party: Plaintiff State of Rhode Island
01/18/2000	Pending Further Investigation
02/01/2000	Response to State's Request for Discovery and Alibi Party: Plaintiff State of Rhode Island
02/08/2000	Pending Further Investigation
02/25/2000	Pending Further Investigation
03/17/2000	Motion to Quash
04/03/2000	Pending Further Investigation
04/05/2000	Response to Defendant's Request for Discovery and Inspection
04/07/2000	Order Entered
04/10/2000	Trial
04/10/2000	Case Opens to Jury/Trial Proceeds
04/10/2000	Motion in Limine
04/10/2000	Granted
04/10/2000	Motion to Suppress Statements

Case Summary

Case No. P1-1999-2961AG

04/10/2000 Passed  
04/12/2000 Motion to Dismiss  
04/12/2000 Granted  
04/18/2000 48A Dismissal Filed  
Party: Plaintiff State of Rhode Island  
04/18/2000 Jury Returns Verdict  
04/18/2000 Exhibits Filed with Clerks Office  
04/18/2000 Continues to be Held on Same Bail  
04/26/2000 Motion for New Trial  
Party: Defendant NUNES, KEITH  
05/01/2000 Pending Further Investigation  
05/03/2000 Denied  
05/03/2000 Pre-Sentence Report Ordered  
05/03/2000 Continues to be Held on Same Bail  
05/04/2000 Memorandum Filed  
Party: Defendant NUNES, KEITH  
06/12/2000 Passed  
06/21/2000 Defense Attorney Unavailable  
06/29/2000 Completed  
06/29/2000 Judgment of Conviction Entered  
06/29/2000 Case Disposed  
Party: Defendant NUNES, KEITH  
06/29/2000 Affidavit Filed  
07/05/2000 Notice of Appeal Supreme Court  
09/12/2000 Motion for Extension of Time  
Party: Defendant NUNES, KEITH  
09/12/2000 Motion  
Party: Defendant NUNES, KEITH  
09/15/2000 Granted  
09/18/2000 Order Entered  
09/18/2000 Order Entered  
09/22/2000 Order for Transcript  
Party: Defendant NUNES, KEITH  
11/02/2000 Appeal Supreme Court Event  
11/02/2000 Case Transmitted to Supreme Court  
11/02/2000 Letter, Transcript Sent to Supreme Court  
02/14/2002 Case Received from Supreme Court  
02/14/2002 Case Received from Supreme Court  
02/14/2002 Judgment Appealed From is Affirmed  
02/20/2002 Completed  
06/20/2002 Order Withdraw Exhibits/Transcripts  
08/06/2010 File Transferred Record Center  
11/16/2011 File Received From Record Center  
01/14/2014 File Transferred Record Center

## Case Summary

Case No. P1-1999-2961AG

07/07/2015 File Received From Record Center  
 07/22/2015 Court Appointed Attorney Letter Sent  
 07/29/2015 Representation Problem  
 07/31/2015 Defense Attorney To Enter  
 07/31/2015 Order Entered  
 08/04/2015 Notice  
 01/12/2016 Transcript Filed  
 01/15/2016 Pending Further Investigation  
 02/02/2016 Completed  
 02/02/2016 Hearing Proceeds And Concludes  
 03/01/2016 Notice of Delinquency  
 05/20/2016 Delinquency Letter Returned Undeliverable

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Hearings

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06/14/1999 **Felony Initial Appearance** (3:30 AM) (Judicial Officer: Rahill, Robert)  
*Occurred*

06/28/1999 **Bail Hearing** (1:36 AM) (Judicial Officer: Quirk, Madeline)  
*Occurred*

07/12/1999 **Bail Hearing** (10:18 PM) (Judicial Officer: Quirk, Madeline)  
*Occurred*

09/22/1999 **Arraignment** (12:00 AM) (Judicial Officer: Clifton, Associate Justice Edward C.)  
*Occurred*

09/29/1999 **Determination of Attorney** (12:00 AM) (Judicial Officer: Clifton, Associate Justice Edward C.)  
*Occurred*

10/06/1999 **Determination of Attorney** (12:00 AM) (Judicial Officer: Clifton, Associate Justice Edward C.)  
*Occurred*

10/22/1999 **Pre Trial Conference** (1:30 AM) (Judicial Officer: Krause, Associate Justice Robert D.)  
*Occurred*

10/25/1999 **Pre Trial Conference** (9:54 AM) (Judicial Officer: Krause, Associate Justice Robert D.)  
*Occurred*

11/15/1999 **Pre Trial Conference** (12:00 AM) (Judicial Officer: Keough (Retired), Magistrate Joseph A.)  
*Occurred*

11/29/1999 **Pre Trial Conference** (12:00 AM) (Judicial Officer: Krause, Associate Justice Robert D.)  
*Occurred*

01/10/2000 **Pre Trial Conference** (1:00 AM) (Judicial Officer: Krause, Associate Justice Robert D.)  
*Pending Further Investigation*

01/18/2000 **Pre Trial Conference** (9:00 AM) (Judicial Officer: Krause, Associate Justice Robert D.)  
*Pending Further Investigation*

02/07/2000 **Trial** (9:00 AM) (Judicial Officer: Krause, Associate Justice Robert D.)  
*Pending Further Investigation*

02/25/2000 **Pre Trial Conference** (9:30 AM) (Judicial Officer: Krause, Associate Justice Robert D.)  
*Pending Further Investigation*

04/03/2000 **Trial** (9:30 AM) (Judicial Officer: Krause, Associate Justice Robert D.)  
*Pending Further Investigation*

04/26/2000 **Hearing on Motion for New Trial** (9:30 AM) (Judicial Officer: Krause, Associate Justice Robert D.)  
*Pending Further Investigation*

**Providence/Bristol County Superior Court**

**Case Summary**

**Case No. P1-1999-2961AG**

05/03/2000	<b>Hearing on Motion for New Trial</b>	(9:30 AM)	(Judicial Officer: Krause, Associate Justice Robert D.) <i>Heard and Denied</i>
06/14/2000	<b>Sentencing</b>	(9:30 AM)	(Judicial Officer: Krause, Associate Justice Robert D.) <i>Passed</i>
06/21/2000	<b>Sentencing</b>	(9:30 AM)	(Judicial Officer: Krause, Associate Justice Robert D.) <i>Defense Attorney Unavailable</i>
06/29/2000	<b>Sentencing</b>	(9:30 AM)	(Judicial Officer: Krause, Associate Justice Robert D.) <i>Completed</i>
09/15/2000	<b>Motions</b>	(9:30 AM)	(Judicial Officer: Dimitri (Retired), Associate Justice William A., Jr.) <i>Heard and Granted</i>
02/20/2002	<b>Advisement Supreme Court Decision</b>	(9:30 AM)	(Judicial Officer: Darigan (Retired), Associate Justice Francis) <i>Completed</i>
07/29/2015	<b>Determination of Attorney</b>	(9:30 AM)	(Judicial Officer: Krause, Associate Justice Robert D.) <i>Representation Problem</i>
07/31/2015	<b>Determination of Attorney</b>	(9:30 AM)	(Judicial Officer: Krause, Associate Justice Robert D.) <i>Defense Attorney to Enter</i>
01/15/2016	<b>Status Conference</b>	(9:30 AM)	(Judicial Officer: Krause, Associate Justice Robert D.) <i>Pending Further Investigation</i>
02/02/2016	<b>Status Conference</b>	(9:30 AM)	(Judicial Officer: Krause, Associate Justice Robert D.) <i>Completed</i>

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**Financial Information**

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<b>Defendant</b>	NUNES, KEITH	
Total Financial Assessment		3,326.80
Total Payments and Credits		0.00
<b>Balance Due as of 12/27/2021</b>		<b>3,326.80</b>
07/05/2000	Transaction Assessment	3,326.80



**RHODE ISLAND DEPARTMENT OF CORRECTIONS  
OFFICE OF PAROLE COORDINATOR**

September 24, 2015

[REDACTED]  
Medium Security  
[REDACTED]

Dear Mr. [REDACTED]

I am in receipt of your letter dated September 15, 2015.

Your parole eligibility date is calculated on 20 yrs. for the Life sentence plus 1/3 of the 10 yr. consecutive which is 3 yrs. 4 mos. This is 23 yrs. 4 mos. as of the retro date of 11/19/95 which makes you eligible in March 2019.

Sincerely,

A handwritten signature in cursive script, reading "Kim Avedisian".

Kim Avedisian  
Parole Coordinator

EXHIBIT 2



C725001

Parole05.rpt

R.I. DEPARTMENT OF CORRECTIONS

DATE: 10/22/21

\*\*\* PAROLE HEARING INFORMATION \*\*\*

ID: 112179  
NAME: NUNES KEITH A

SEC: MED AMODR 30B  
D.O.B: 04/17/1981

SSNO: [REDACTED] ELIGIBILITY DATE: 11/01/2022

\*\*\* SENTENCE INFORMATION \*\*\*

CRT RETRO SENTENCE STATUS YYY MMM DDD GOOD FULL

06/14/99 PAROLED NEXT SENTENC 0 0 0  
07/17/19 CONTROLLING SENTENCE 10 0 0 09/05/2028 07/16/2029

JUNE 17, 2019 PAROLED 7/2019 CONSECUTIVE SENTENCE

The Board considered information reflecting both static and dynamic indicators including, but not limited to, criminal history, police reports(s), institutional record, risk assessment(s) and parole plan/request. Mr. Nunes is represented at hearing by his attorney who has submitted a package of materials on his behalf. The Board is considering him for parole from his Life Sentence to his next Consecutive Sentence of ten years. At hearing Mr. Nunes takes full responsibility for his crime and expresses appropriate remorse for his actions and thinking in 1999 when he was eighteen years old and killed his victim. We find that he has taken intentional steps towards his rehabilitation and has succeeded in this. Considering all the circumstances of the crime, severity including loss of life, Mr. Nunes' age, background at the time of the offense, time served to date, positive institutional record, we find that he meets parole release criteria and the Board votes to parole him from this Life Sentence to his next Consecutive Sentence of ten years. We will see him when he is next eligible on that sentence. Between now and then we refer him to the pre-release program and other programs to aid him in his eventual transition to the community. Conditions of parole on this Life Sentence will include mental health and substance abuse treatment assessments and counseling as needed for the duration of parole. The Board will set more specific conditions when we see him when he is next eligible. Parole is contingent upon this offender remaining booking free and in any program or educational course in which he is currently enrolled. (GTD: LIFE) MEDIUM VOTE: UNANIMOUS-Present; Pisaturo, Perez, Nolan, Cad

CONTINUED NEXT PAGE...

▲ Parole05.rpt

R.I. DEPARTMENT OF CORRECTIONS

DATE: 10/22/21

\*\*\* PAROLE HEARING INFORMATION \*\*\*

ID: 112179  
NAME: NUNES KEITH A

SEC: MED AMODR 30B  
D.O.B: 04/17/1981

SSNO: [REDACTED] ELIGIBILITY DATE: 11/01/2022

JUNE 18, 2019 MISC REVIEW

Per Chairperson Pisaturo and Mr. Nunes' June 17, 2019 parole minutes he will be reviewed in November 2022 to determine conditions of parole on the Life Sentence. (al

JULY 17, 2019 MISC RELEASE TO CONSECUTIVE SENT.

END OF MINUTES



January 12, 2022

Laura A. Pisaturo, Esq.  
Chairperson  
Rhode Island Parole Board  
12 Halligan Road, Mathias Bldg. #56  
Cranston, RI 02909

**RE: Keith NUNES #111279**

Dear Chairperson Pisaturo:

I am writing on behalf of my client Keith NUNES, #111279, to request an earlier reconsideration based on the Youthful Offenders Act. Mr. Nunes was born on April 17, 1981, and at the time he committed his offenses, he was eighteen (18) years old.

Public Law 2021, chapter 162, Article 13 §3, effective July 6, 2021, amended R.I.G.L. § 13-8-13, to add a new subparagraph (e):

*(e) Any person sentenced for any offense committed prior to his or her twenty-second birthday, other than a person serving life without parole, shall be eligible for parole review and a parole permit may be issued after the person has served no fewer than twenty (20) years' imprisonment unless the person is entitled to earlier parole eligibility pursuant to any other provisions of law. This subsection shall be given prospective and retroactive effect for all offenses occurring on or after January 1, 1991.*

Mr. Nunes meets all of the terms of the Youthful Offenders Act, in that he has served at least 20 years' imprisonment on sentences for offenses all committed prior to his twenty-second birthday. On June 17, 2019, the Parole Board first considered and unanimously approved Mr. Nunes for parole from his life sentence to begin serving time on his consecutive 10-year sentence. It is our belief that under the Youthful Offenders Act, Mr. Nunes is eligible for parole to the community currently, and that he does not have to serve 1/3 of his next sentence prior to seeing the Parole Board again.

Thank you in advance for your consideration of this request.

Respectfully,

Lisa S. Holley  
Lisa S. Holley, Esq.



**RHODE ISLAND DEPARTMENT OF CORRECTIONS**  
**PAROLE COORDINATORS OFFICE**  
Dix Building  
18 Wilma Schesler Lane, 2<sup>nd</sup> Floor Right  
Cranston, RI 02920

October [REDACTED] 2021

[REDACTED]

Dear Mr. [REDACTED],

Effective July 1, 2021, The Rhode Island General Assembly passed a new law regarding youthful offenders (individuals twenty-two (22) years of age and under). This law changes the time for which some individuals imprisoned on a life sentence must serve before being eligible to appear before the Parole Board. The new law states youthful offenders must serve 20 years on the sentence before being eligible for parole (as opposed to 25 years).

Due to this change, your initial parole eligibility date has been changed to February of 2034 (on count 1 only). If you have consecutive sentences, a grant of parole will result in your beginning to serve the term(s) of any consecutive sentences.

After discussion with the DOC legal department, it has been determined that if and when you are paroled from the life sentence on count 1, it will be to count 2 (10 years to serve). You will be eligible on the 10 years after 1/3 of that sentence (3 years, 4 months). If and when you are paroled from the 10-year sentence, it will be to your life sentence on count 3 (minimum mandatory of 15 years).

All of your sentences do not receive the benefit of aggregation because you have been sentenced to life sentences with minimum mandatory terms to serve as well as a sentence that carries a term of years. That sentence structure negates the aggregation rules.

Respectfully,

Dot Valenzuela  
Parole Coordinator

EXHIBIT 5



State of Rhode Island  
Parole Board  
40 Howard Avenue  
Cranston, Rhode Island 02920

January 18, 2022

Lisa Holley, Esq.  
Lisa Holley Law  
536 Atwells Avenue  
Providence, Rhode Island 02909

Dear Attorney Holley:

Thank you for your recent letter on behalf of Keith Nunes in which you request "an earlier reconsideration based on the Youthful Offenders Act" (RIGL 13-8-13(e)). I reviewed the minutes from Mr. Nunes' June 17, 2019 hearing and find them very express as to the vote by and intent of the panel of the Parole Board that considered this matter. Per that decision, Mr. Nunes was paroled from his life sentence to begin serving his next consecutive sentence of ten (10) years. As you know, both from your tenure on the Parole Board and legal practice, initial parole eligibility on sentences imposed by the court is determined by the Department of Corrections. The Department of Corrections has set Mr. Nunes' eligibility on the consecutive sentence for November 2022 and that is when he is next scheduled to see the Parole Board.

I appreciate your interpretation of the Youthful Offenders Act is that he does not have to serve one-third of his next sentence. As you previously agreed with the Parole Board in a similar case (see November 2019 Parole Board decision re: Pablo Ortega), the application of the Youthful Offenders Act to life + consecutive terms (vis-à-vis initial parole eligibility on the consecutive term) is outside the statutory authority of the Parole Board.

Further clarification or modification of this timeline should be directed to the Department of Corrections.

Very truly yours,

Laura A. Pisaturo, Esq.  
Chairperson  
RI Parole Board

LAP:al

TELEPHONE (401) 462-0900

FAX (401) 462-0915

EXHIBIT 6