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TO: Liam Paul
FROM: Applicant
RE: State v. Dalton
DATE: July 30, 2024

CLOSING ARGUMENT

If it may please the court...The state has proven that Adam Dalton is guilty of both Second Degree Murder, and the lesser charge of Involuntary Manslaughter. In closing, we will show that each element of the alleged crimes has been met beyond a reasonable doubt. Testimony from witnesses, and Adam Dalton himself establish that Adam Dalton acted with Implied Malice in the murder of Laura Vons, and was also Criminally Negligent, the substantial factor in the death of Laura Von's.

I. ADAM DALTON SHOULD BE CONVICTED OF SECOND DEGREE MURDER, FINDING IMPLIED MALICE DUE TO HIS KNOWING MISHANDLING OF A LOADED GUN, ACCIDENTAL FIRING OF WEAPON KILLING LAURA VON'S (MALIGNANT HEART)

Second degree murder is the unlawful killing of a human being with malice aforethought, but without premeditation, deliberation and willfulness necessary to elevate the offense to first degree murder. **(CPC) 187,189.**

(i) Unlawful Killing of a Human Being

The first element is the unlawful killing Unlawful Killing of a Human Being.

On November 30, 2023 at 7:05am, the police responded to a shooting at Adam Dalton's house. They found Laura vons in the arms of Brett Reed, Dalton's roommate. Dalton "expressed regret that he shot Von's, and asked if Von's was okay."

This element is met.

Defense - Justification or Excuse. The defendant must raise the issue of excuse but does not bear the burden of proof or persuasion of the prosecution. **McNally**

(ii)With Malice Aforethought

The second element is that the killing was done with malice aforethought. Malice, for the purpose of constituting murder of either degree, may be express or implied. Express Malice is "when there is manifested a dliverate intention unlawfully to take the life of a fellow creature. Implied Malice is present when the circumstances attending the killing show an abandoned and malignant heart. The court uses a subjective test. If the defendant realized the risk and acted in *total disregard* of the danger, he is guilty of murder based on malice. **McNally**

In **State v. McNally**, Defendant was convicted of second degree murder. The court found him

liable based on implied malice. The defendants prior training and experience with guns as well as reckless manner in which he killed the victim were probative to find guilt of second degree murder.

Experience with Guns

Here, the cases are similar because Dalton had a box containing a semiautomatic handgun, a box of .38-caliber bullets, a duffel bag containing a sawed-off shotgun and a box of shotgun shells. Dalton may not Dalton knew the gun was loaded according to Liam Paul, and additionally Liam stated that Dalton stated he "accidentally" shot her. Thus, the mental component is established where the Dalton "knew that his conduct endangers the life of another and acts with conscious disregard for life". **McNally**

The cases are similar, in that they both involved persons who were mishandling a gun. The court in **McNally** stated "One who playfully fires a gun that he knows is loaded in the direction of another person may be convicted of murder" Dalton, is experienced with guns, we know this based on the evidence collected by the police officers, in addition to Dalton's own statements to Officer Ames.

Behavior Following Shooting

In **State v. McNally**, the court found the behavior of the defendant following the shooting was *also probative* of implied malice. Subsequent behavior such as *hiding a weapon* or even *denying the shooting* may not show implied malice... However, the defendant in this matter continued clear *lack of remorse*

Here, when officer arrived to the scene of the crime, Brett Reed was leaning against the fender of the Cadillac holding Laura in his arms. Laura was shot in the face. It was not until the officers came to the scene that Dalton came "running out of the house with blood on his clothes and face, screaming for someone to call an ambulance for Laura. The officers conducted a protective sweep and discovered that the murder weapon was wet, as Dalton was attempting to wipe his fingerprints.

Liam Paul stated that Dalton was "calm and collected." Which is similar to **McNally**, in that the defendant went and smoked a cigarette after killing a friend. This would indicate that Dalton acted with *clear lack of remorse*. The fact that Dalton was on the phone crying "noo, baby" and "baby are you alive, baby" was in conflict to Dalton's actions, in that Dalton was trying to hide the murder weapon, and it was his roommate, not Dalton that was holding her. Dalton never called the ambulance, it was the police who did.

In closing, all elements of second degree murder are met. Dalton knew the gun was loaded, and was experienced with guns. Dalton changed his story, to officers because he knew the gun was loaded, which was reckless disregard for human life. Dalton acted killed Laura, and did so with implied malice, a malignant heart.

II. ADAM DALTON SHOULD BE CONVICTED OF INVOLUNTARY MANSLAUGHTER, HIS MISHANDLING OF A LOADED GUN WAS THE PROXIMATE CAUSE AND SUBSTANTIAL FACTOR IN LAURA'S DEATH

Involuntary manslaughter is a lesser offense of murder, distinguished by its mens rea. It is

defined as a killing "in the commission of a lawful act which might produce death, in an unlawful manner, or without due causation and circumspection. **CPC 192.** In other words "criminal negligence."

Criminal Negligence

Criminal negligence exists when the defendant engages in conduct that is aggravated, culpable, gross or reckless. The conduct is a departure from that of a *ordinary prudent or careful person* under the same circumstances as to be incompatible with proper regard for human life, or in other words.. a disregard for human life or indifference to consequences.

(i) Mens Rea

The mens rea element is the mental state to involuntary manslaughter. When Dalton pulled the hammer back on the gun, this was *gross or reckless* conduct. An ordinary and prudent person would not pull the hammer of a loaded gun and point it at another person.

This element is met.

(ii) Actus Reus

The actus reus is the act, which similar to **State v. Freud** involves a parter handing a load gun. The difference is the Dalton was pointing the weapon at Laura, whereas Freud handed the weapon to his wife, who shot herself. When Dalton pulled the hammer back on the gun, this was *gross or reckless* conduct. An ordinary and prudent person would not pull the hammer of a loaded gun and point it at another person.

(iii) Proximate Cause - Substantial Factor - Concurrent Causes

A showing of involuntary manslaughter requires a showing that the defendants conduct *proximately caused* the victim's death. When there are concurrent causes of death, the defendant is criminally responsible if their conduct was the **substantial factor** contributing to the result. **Freud**

Concurrent Causes

When the conduct of two or more persons contributes concurrently as the proximate cause of the death, the conduct of each is a proximate cause. A cause is concurrent if it was *operative* at the time of death and acted with another cause to produce the death. **Freud**

Dalton will contend that the gun is was not loaded, or that the gun mechanically misfired. The arguments are both in conflict with the testimony of Ellen Donato, and that of Officer Hal Ames. The evidence points that Dalton has changed the story or altered the story to fit the narrative that is in conflict with the evidence. Because Dalton already admitted to officer Ames that the gun was loaded, we know that Dalton knew. Dalton carries numerous weapons and thus is familiar with the weight of the weapons. Furthermore, Dalton's testimony that the gun misfired is disputed by a criminal specialist, that this was in no way possible.

In **State v. Freud** the court found found that the defendant, whom handed his wife a loaded gun was the proximate cause attribute to the death of his wife. The court stated it was *reasonably foreseeable*, natural probable consequence of defendants act, and not a remote consequence

that is insignificant.

Dalton pulling the hammer back on a loaded gun which he was aware was loaded, and then accidentally pulling the trigger, shows beyond a reasonable doubt that Dalton's criminal negligence was the substantial factor in causing Laura's death. Laura's death was a natural and probable consequence of Dalton's act, making it reasonably foreseeable. When there are multiple concurrent causes of death, the fault of the defendant reaches beyond the "but for" test. **Freud**

Closing Statement

In closing, all elements of second degree murder are met. Dalton knew the gun was loaded, and was experienced with guns. Dalton changed his story, to officers because he knew the gun was loaded, which was reckless disregard for human life. Dalton acted killed Laura, and did so with implied malice, a malignant heart. Furthermore, all elements of Involuntary Manslaughter are met, the lesser crime. Dalton was criminally negligent when handing Laura a loaded gun. Though Laura initially brandished the gun, Dalton's pulling the hammer back was the substantial factor in the weapon activating. The testimony of Ellen Donato, a criminalist with the Columbia State Police Department' testimony that "it simply could not happen," as to Dalton's story, is proof beyond a reasonable doubt that Dalton's story does not hold up.

We ask the court to convict Dalton on the charged crime of second degree murder.

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END OF EXAM