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To: Liam Paul

From: Applicant

Re: State v. Dalton

Date: July 30, 2024

You asked me to write closing arguments in the above matter stating that the state has proven each required elements beyond reasonable doubt to prove that Mr. Dalton is guilty of second degree murder or in the alternative involuntary manslaughter. This is a draft of the closing arguments for your review. Should you have any question, please feel free to discuss.

Draft Closing Argument:

May it please to the court:

Good morning your Honor

The defendant Mr. Adam Dalton has been charged with second degree murder and lesser included offense of involuntary manslaughter for killing Laura Vons. The state presented the evidence from Eric Hobes, Hal Ames and Talia Tams. State also presented evidence of Ellen Donato as an expert in fire arms. The defense has presented the testimony of Mr. Dalton and Brett Reed.

The facts of the cases are the defendant Adam Dalton has shot his girlfriend Laura Vons. He shot her on face and killed her. The state submits that the defendant knew the gun was loaded and he is not claiming any affirmative defense of justification or excuse as confirmed by defense, the state submits that the defendant is a guilty of second degree murder.

Second degree murder:

S. 187, 189 of Columbia Penal Code defined second degree murder as the lawful killing of a human being with malice aforethought, but without the premeditation, deliberation and willfulness necessary to elevate the offense to first degree murder. The state submits that the defendant killed Laura Vons with Malice aforethought.

As per S. 188 of CPC ,malice can be express or implied. As decided in McNally, malice is express when there is a manifested a deliberate intention unlawfully to take away the life of a fellow creature.

Implied malice can be inferred from the circumstances attending the killing and when the defendant shows complete disregards to the known risk. Usually if the defendant knows his conduct can endanger the life of another and acts with conscious disregard for the life, implied malice can be inferred. (Olivas).

Defendant's behavior following shooting is probative of implied malice.

In the case of McNally, similar facts with the defendant's case, held that defendant McNally acted with implied malice and found him guilty of second degree murder. The facts were similar to our case at the bar. Mr. MacNally was convicted for second degree murder of correctional officer. He appealed the to the District court of appeal. He killed his friend Gary Bent and after that he sent message to Sonia Reynolds. He did not call ambulance and he was not remorseful. He was aware that the gun was loaded and still he fired the gun at Gary Bent. He appealed saying that the shooting was accidental. He claimed that the evidence did not support the finding that he acted with malice aforethought. The court found the implied malice because he knew the gun was loaded and he pointed out in a reckless manner towards Bent, his text messages and his behavior following shooting and his statement to the police proved the implied malice and court of appeal affirmed the decision.

In the case at bar, defense will argue that the Defendant was in love with Laura. He testified that he did not know the gun was loaded. He told Brett to call 911 and he tried to give Laura mouth to mouth resuscitation . He went outside to look for help and therefore he has no express or implied malice.

However, his statment to police he said he knew gun was loaded and still he fired it. Also he lied in his testomony that he did not know the gun was loaded. Implied malice is a subjective test and if the defendant realized that he acted in total disregard of the danger, he is guilty of murder based on implied malice which is the case here. The state has proved the elements of implied malice and therefore defendant should be found guilty of second degree murder.

Alternatively the state submits that the defendant must be found guilty of involuntary manslaughter because death of Laura cannot be attributed to any supervening cause and defendant was the proximate cause of her death.

Involuntary Manslaughter:

the state submits that in killing Laura, with the gun. He handled the dangerous weapon without due caution and he is guilty of involuntary manslaughter.

As per S. 192 of CPC If the Killing in the commission of a lawful act which might produce death, in an unlawful manner, or without due caution and circumspection, basically it is a criminal negligence.

Criminal negligence exist when the defendant engages in conduct that is "aggravated, culpable, gross, or reckless. - State V Penny.

Marked departure from the conduct of ordinary prudent person under the same circumstances can make the killing involuntary manslaughter.

In the case of Feud , the court of appeal decided that the defendant Feud was the proximate cause of death of his wife, Betty. Defendant gave the gun to his wife and told her to kill herself by giving a gun and saying i am making easy for you. the defendant claimed there is no cuasation, however the court found him guilty of involuntary manslaughter based on causation.

Freud

In this case, defendant claims he did not know the gun was loaded and it was accident however he is the proximate cause of the death of Laura as he handled the gun carelessly and therefore he is guilty of involuntary manslaughter.

The state has proven the element of causatioin as in Freud and therefore the defendant should be found guilty .The defendant claimed it accident but states' expert proved it is not possible. State proved it by expert witness

Question #6 Final Word Count = 963

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