

6)

State v. Dalton

Bench Trial

State's Attorney Closing Arguments

Statement of Facts

Adam Dalton has been charged with second degree murder and a lesser included offense of involuntary manslaughter for the death of his girlfriend Vons.

While the facts presented before us prove that the defendant committed murder in the second degree beyond a reasonable doubt, we the prosecution move for the court to convict the defendant for involuntary manslaughter as well.

Second Degree Murder

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) An unlawful killing is one that is not justified or excused. Under Columbia law, a defendant must raise the issue of justification or excuse but does not bear any burden of proof or persuasion in murder prosecution (Frye). If it is not raised it is waived.

Here, as we heard from officer Hobbs, the defendant expressed guilt and regret for killing and shooting the deceased. The defense has argued that this was just an accident and that the defendant did not mean to kill Von and hence could not have the malice required to commit murder in the second degree. However, malice for the purpose of constituting murder can be (1) express or (2) implied (CPC).

It is express when there is a manifestation of a deliberate intention to unlawfully take away the life of another. (CPC). Implied malice is when the circumstances of the killing show an abandoned or malignant heart. The mental component or mens rea is achieved when a defendant knows that his conduct endangers the life of another and he acts with conscious disregard of life (Olivas). Here, the defendant claimed as we know from the examination of Ames that he knew that the gun was loaded. Therefore this constitutes malignant heart and is implied malice.

It is settled that brandishing a loaded firearm knowing that it is loaded at a person even jokingly can constitute murder in the second degree (McNally). Intoxication is not a defense for implied malice.

Here, the defendant clear showed that he was brandishing the gun at the victim when he took the gun from her and pointed it at her. The defense has also failed to raise the defense of any ex w he handled the gun, therefore that defense has been waived.

Therefore, we move for the court to convict the defendant of murder in the second degree.

Involuntary Manslaughter

Involuntary manslaughter is a lesser offense to murder and can be distinguished from its mens rea. The mens rea for murder is specific intent to kill or consciously disregard human life.

To prove manslaughter beyond a reasonable doubt--1) insufficient evidence to support causation (actus reus) ; and 2) insufficient evidence of mens rea to support conviction.

Actus Reus

Here, the evidence is clear that the deceased died as a result of a bullet wound from the pistol in evidence that belonged to the defendant.

Mens Rea

Further, it is defined as a killing "in the commission of a lawful act which might produce death in an unlawful manner, or without due caution and circumspection" (CPC). Also called criminal negligence. This includes conduct that is "reckless, aggravated, gross" and a departure from what would be conduct of an ordinary prudent person under the same circumstances. Handling a loaded firearm has been held as fairly inferable towards a lack of caution or circumspection. (Frued)

Here, the defendant did have the mens rea to since his actions are a grave departure of any reasonable person handling a gun in these circumstances.

Proximate Cause

It also requires a showing of defendant's conduct proximately cause the victim's death. If proved, the defendant is criminally liable if their conduct was a substantial factor in the death. There may be more than one proximate cause of the death (Sanchez). If there are multiple concurrent causes of death the court need not decide whether the defendant's conduct was the primary cause, but only decide whether the defendant's conduct was a substantial factor (Jennings). Proximate cause requires that death was foreseeable, natural and probable consequence of the defendant's act, rather than theoretical.

Here, like the court held in Frued, the death of the victim cannot be attributed to any intervening or supervening cause, such as the victim's taking and holding of the gun or any arguments of intoxication but was the proximate result of the negligence of the defendant. Here, the victim's act of brandishing the gun in front of the defense is not a supervening event that cuts off the defendant's liability of proximate cause.

It is settled that brandishing a loaded firearm unknowing that it is loaded at a person even jokingly can constitute murder in the involuntary manslaughter (McNally). Here again, intoxication is not a defense.

The defendant by brandishing a loaded firearm has committed involuntary manslaughter knowing it was loaded.

C

The prosecution rests its case and requests that the court find the defendant guilty of

involuntary manslaughter and second degree murder.

Question #6 Final Word Count = 844

END OF EXAM