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TO: Liam Paul

From: Applicant

RE: State v. Dalton

Date: July 30, 2024

CLOSING ARGUMENT

INTRODUCTION

The court is here to hear whether the State has proven beyond a reasonable doubt that Adam Dalton (D) has committed 2nd degree murder, or alternatively involuntary manslaughter from the killing of Laura Vons (P).

Below are the State's points of argument.

ANALYSIS

I. 2nd Degree Murder

2nd degree murder is the unlawful killing of a human being with malice aforethought, but without the premeditation, deliberation, and willfulness necessary to elevate the offense to first degree murder. *State v. McNally*. An unlawful killing is one that is not justified or excused. A defendant must raise the issue of justification or excuse but does not bear any burden of proof or persuasion in a murder prosecution. *McNally*. If the defense is not raised it is waived.

Malice Aforethought - Express and Implied

A) Express Malice

Express malice is when there is manifested and deliberate intention unlawfully to take away the life of a fellow creature". *McNally*.

Here, in the instant case, Dalton has not demonstrated a "manifested and deliberate intention unlawfully to take away the life..." *Id.* Dalton has explained that he was unaware that the gun was loaded and in conversations from other witnesses, they have testified of him saying things such as he "did not want her to die...would do anything for her...." and that he was expressively crying in their recounts of their testimonies in relation to him such as the 911 call and when he expressed regret about shooting her (Cross Examination of Hal Ames by Lucia Wren; Testimony of Eric Hobbs).

However, State argues that Dalton did manifest and deliberate an intention to unlawfully take away the life. In other testimonies, State has brought up that Dalton seemed "calm and

collected". (Examination of Hal Ames). In the direct examination, by State Attorney Liam Paul, Dalton said in his testimony that he knew the gun was loaded because he had not taken the bullets out when he bought it. Also, State will bring up the testimony of their expert witness, Ellen Donato, who in her professional opinion as a criminalist with expertise in firearms, stated that such an accident could not happen. (Examination of Ellen Donato). Donato says multiple safeties on guns are made so the gun cannot be fired by pulling the hammer back and releasing it before it is fully cocked. *Id.*

Therefore, Dalton can be found to have committed 2nd degree murder by express malice.

B) Implied Malice

Implied Malice is when the circumstances attending the killing show an abandoned and malignant heart. It is a subjective test - if a defendant realized the risk and acted in total disregard of the danger, he is guilty of murder based on implied malice. *McNally*. The mental component is established when the defendant knows that his conduct endangers the life of another and acts with conscious disregard for life. *Id.*

For example, courts have held that brandishing a loaded fire arm at a person is an act dangerous to human life. If one playfully fires a gun that he knows is loaded may be convicted of murder. *McNally*. If one performs the same act, but is incorrectly convinced that the gun is not loaded, is guilty of manslaughter. *Id.*

Here, in the instant case, Dalton (D) claimed that the shooting was accidental. The victim, his girlfriend Laura Vons pointed the gun at him, which he pushed away. On the second time, Vons did it again, but this time Dalton took the gun from her and pointed her way, accidentally shooting her in the process. (Detective Ames Testimony). Additionally, Dalton said that he knew the gun was not loaded when he took the gun away from Laura and pointed it her way. (Adam Dalton Examination). Since Dalton has claimed to be unaware that the gun is loaded, it would demonstrate that he acted in implied malice when he shot the gun.

Thus, Dalton can also be charged with 2nd degree murder by implied malice.

Involuntary Manslaughter

Involuntary manslaughter is when there is no specific intent to kill or conscious disregard for life. Involuntary manslaughter requires (1) act, (2) mens rea, and (3) causation.

(1) Act

An act is an action that occurred belonging to the defendant. *State v. Fraud*.

Here, Dalton committed the act of shooting Laura Vons.

Thus, act is met by Dalton.

(2) Mens Rea

Mens rea requires specific intent in the killing. *Fraud*.

Here, as discussed above, State has presented testimony that clearly puts defendant Dalton as having the specific intent of killing either by express or implied malice. In *re. M.*, the court held

that knowledge of a loaded gun amount to murder, while mistakenly believing a gun is not loaded, it manslaughter. As in the instant case, there does not appear to be a mistake unless Defense can prove so or the court is compelled by the inconsistencies of Brett and Dalton's testimonies.

Thus, Dalton had the mens rea for the killing of Laura Vons.

(3) Causation

Causation requires a showing that the defendant's conduct proximately caused the victim's death. *Fraud*. Proximate causation requires that the "death was reasonably foreseeable, natural, and probable consequence of the defendant's act...regarded as a substantial factor in bringing about the death". *Id*.

Here, the two independent acts, the mistake firing what he thought was an unloaded gun and the shooting, could be seen as proximately causing the death. Similarly, in *State v. Sanchez*, the court held that the defendant's two actions - intoxication of shooting the gun did not intervene or supersede the death of the victim.

Thus, causation met.

Therefore, Dalton can be charged with involuntary manslaughter.

CONCLUSION

In conclusion, the court should charge Dalton criminally for 2nd degree murder with malice aforethought and involuntary manslaughter.

Question #6 Final Word Count = 971

END OF EXAM