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To: Liam Paul

From: Applicant

Re: CLOSING STATEMENT IN State v. Dalton

Date: July 30, 2024

Dear Mr. Paul:

We are prosecuting Adam Dalton who is being charged with second degree murder and involuntary manslaughter in his non-jury trial. You have asked me to draft you a closing argument for tomorrow's hearing. You want me to argue that the state has proved ALL elements of second degree murder, and in the alternative, involuntary manslaughter. You have pointed out that you will be speaking to a bench trial so I have more latitude in making references to legal authority but that I should still use it. You want me to be persuasive and make reasonable inferences to establish that the state has met its burden beyond a reasonable doubt. You also asked me to address each offense separately.

Please see below draft and let me know if you request any changes.

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## **OPENING REMARKS**

Good morning your honors and may it please the court.

I am Liam Paul, attorney appearing on behalf of the State in the matter of State v. Dalton.

The State has more than satisfied its burden of proof in establishing that Defendant, Adam Dalton's, conduct meets every element of second degree murder and, in the alternative, every element of involuntary manslaughter. I will now briefly touch on each offense and how the evidence presented supports each and every element.

## **ARGUMENT POINTS**

Each crime can be broken down into three elements: an actus reus, a mens rea, and causation.

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Starting with second degree murder:

The CPC sections 187 and 189 define second degree murder as an unlawful killing of a human being with malice aforethought but without premeditation, deliberation, and willfulness necessary to elevate the offense to first degree murder.

*The Actus Reus:*

An unlawful killing is one that is not justified or excused. McNally.

In the present case, Defendant unlawfully shot and killed his innocent young woman, Lauren Vons. Defendant was the owner of a revolver, semiautomatic handgun, a sawed off shotgun, and ammunition for all of them. Officer Hobbs has testified that a revolver using .38 caliber rounds was the weapon that killed Ms. Vons, and Defendant was the owner of such weapon.

Further...

*The Mens Rea:*

Under CPC section 188, malice can be either express or implied.

Express malice is when there is deliberate intention to unlawfully take another's life. Implied Malice is when circumstances around the killing show an abandoned and malignant heart, which is a subjective test.

Here, Defendant's conduct constitutes implied malice because he acted with such a malignant heart. The McNally court has stated that if a defendant realized the risk of his conduct and still acted in total disregard of the danger, he is guilty of murder based on implied malice. Defendant in the present case was the owner of at least three guns. He kept them in his bedroom loaded and in a drawer. He did not utilize a gun safe, nor did he keep them unloaded. Defendant obviously realized the dangerous risk of guns, seeing as he was a proud owner of three. Yet, he still acted with total disregard of the fact that a gun is a deadly weapon that could kill someone who wasn't aware of its dangers. Keeping a loaded gun in a bedside drawer, and not locked in a safe, all while having guests over to your house is a complete disregard of the danger that guns pose. The McNally court has also provided a useful example: one who playfully fires a gun that he knows is loaded in the direction of another person may be convicted of murder. This is exactly the same circumstance in the present case. Laura Vons was visiting the defendant at his house when he began playfully waving the gun at defendant. Defendant took the gun and began doing the same to Ms. Vons, after which the alleged "accident" occurred when the gun discharged.

Now whether the defendant knew the gun was loaded or not is also at issue. The defendant testified that he was not aware that it was loaded on the night in question. However, the detective testified that Defendant told her that he did know the gun was loaded that night. Defendant later testified denying what he had told the detective. Defendant also testified that the hammer to the gun slipped and that was what caused the accident that killed Ms. Vons. Yet Criminalist, Elen Donato, and an expert in firearms testified that the alleged accident that defendant described was impossible, and could not happen. Thus, it should be clear that defendant was lying about whether he knew the gun was loaded, likely to avoid more prison time after having just got out, and made up the hammer slipping story in order to compensate. Defendant was aware that the gun was loaded. Thus, there is implied malice by the defendant

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here.

The state has shown that the defendant committed an unlawful killing with implied malice aforethought, thus proving the elements of second degree murder beyond a reasonable doubt.

Next, continuing with Involuntary Manslaughter

Next, CPC section 192 defines involuntary manslaughter as a killing in the commission of a lawful act which might produce death, in an unlawful way, or without due caution.

*The Actus Reus:*

The evidence is clear that the deceased, Laura Vons, died as a result of a bullet wound from the revolver in evidence that belonged to the defendant. Thus, the defendant has satisfied the actus reus element is met here.

*The Mens Rea:*

The mens rea for involuntary manslaughter is criminal negligence.

In Penny, the Columbia supreme court has stated that criminal negligence is conduct that is such a departure from ordinary conduct under similar circumstances that it is incompatible with a proper regard for human life. This is an objective test.

Here, defendant acted with criminal negligence because an ordinary person would not swing a loaded gun around and point it at someone whom they cared about. Defendant claim to have loved Lauren Vons, as his girlfriend at the time, yet was comfortable waiving a loaded gun at her. This is not normal behavior. Thus, this is satisfied

*Lastly, Causation:*

In Freud, the court of appeals stated that involuntary manslaughter requires showing that the defendant's conduct proximately caused the victim's death. The Columbia Supreme Court explained in Sanchez, that when the conduct of two or more defendants contributed concurrently as the proximate cause of a death, the substantial factor test is used. Causation must also be reasonably foreseeable.

Here, it was foreseeable that Defendant waiving his loaded gun around could injure and kill someone. Thus, the causation element is satisfied.

## **CONCLUDING REMARKS**

In sum, the evidence is clear that the state has proven, beyond a reasonable doubt, that Adam Dalton is guilty of second degree murder or, in the alternative, involuntary manslaughter.

Thank you, yours Honors.

The State rests its case.

Question #6 Final Word Count = 1150

**END OF EXAM**