# CLOSINGS

JEREMY BALDWIN

# The Basics

- The State goes first
- The Defense goes
- The State's rebuttal
- Time limits
- The State's first closing must be longer than the rebuttal
- Closing argument must be limited to the facts admitted at trial and the reasonable inferences which can be draw from those facts.

# Tips

- NERVOUSNESS
- ENGAGE THE JURY
- **DYNAMIC DELIVERY** 
  - Pacing, tone, and emphasis
- TIMING AND TRANSITIONS

- Prepare word for word your first min and your last min.
- Have a printout of your power point
- Be organized



# Do not! Do not! Do Not!

- O Do not Insert personal beliefs
- O Do not Vouch for the credibility of the witnesses
- O Do not Misstate the law
- O Do not Call the defendant names
- O Do not Appeal to juror's sympathy or their personal interest
- O Do not Comment on evidence outside the record the right to testify
- O Do not Ask the jury to send a message
- O Do not Personally attack the defense counsel

# Things to do!

- Project confidence not smug or cocky
- O Project Honesty
- Show passion
- Be articulate
- Be energetic but not fast
- Be respectful
- O EYE CONTACT

- Tell your case story
  Destroy the defense story
  Make it easy for jury its not easy
- If you like themes use them but don't be corny with them, they must fit to convict!

## The Art of Closing Arguments

- Talk about the evidence
- Talk about the law the elements of each offense
- Own your burden but do not saddle yourself with the burden
- If you have a theme of your case use it tactically
- Appeal to logic and common sense
- Explain the all the facts and how they meet your elements

# State's First Closing

- The law go over jury instructions
- This can be detailed but do not just read the instructions again
- Quickly dismiss the undisputed elements
- O Don't run away from your weaknesses you attack and dismiss them
- Bolster your strengths over and over
- Lesser included
  - Different for each case and jurisdiction.

# For example:

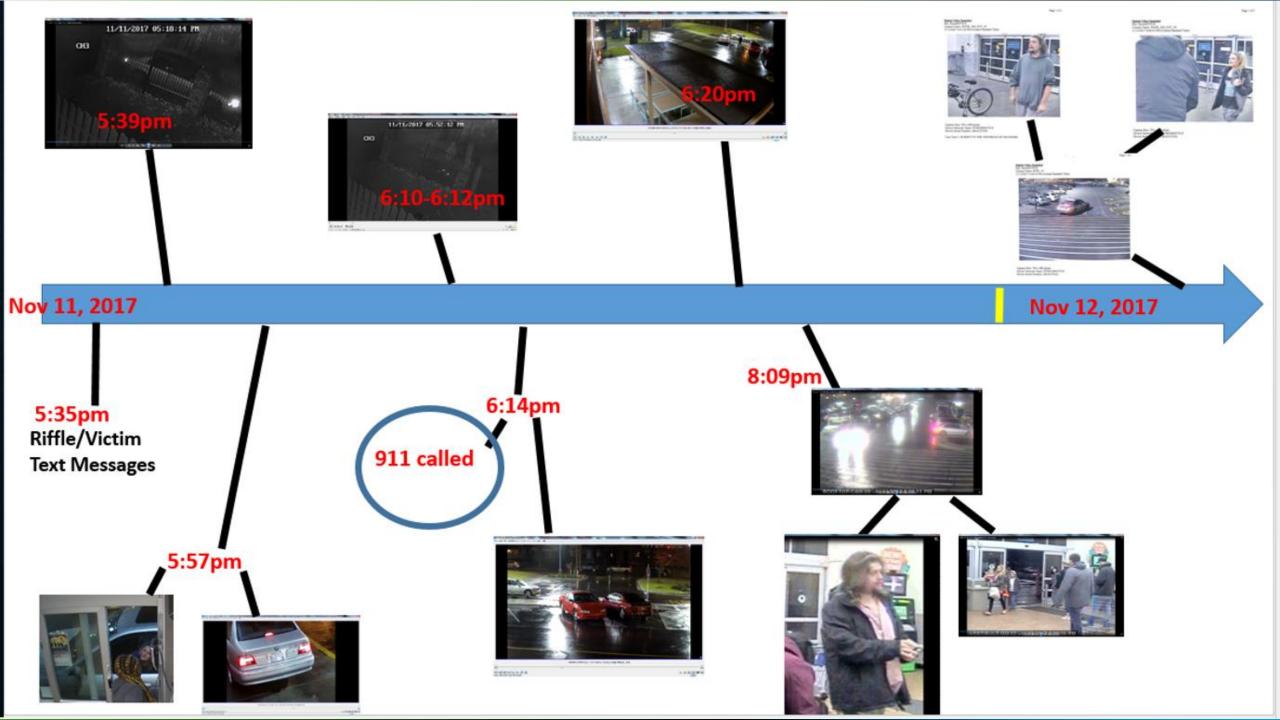
## **REASONABLE DOUBT**

Proof beyond a reasonable doubt is proof that leaves you <u>firmly convinced of the defendant's guilt</u>. The law <u>does not require proof that overcomes every possible</u> <u>doubt.</u> If, after your consideration of all the evidence, you are firmly convinced that the defendant is guilty of the crime charged, you will find her guilty. If you are not so convinced, you must give her the benefit of the doubt and find her not guilty.

## INSTRUCTIONS

#### Instruction

- It is your duty to determine the facts and to determine them only from the evidence and the reasonable inferences to be drawn from the evidence. In your determination of the facts, you alone must decide upon the believability of the witnesses and the weight and value of the evidence.
   Instruction
- You will bear in mind that it is your duty to be governed in your deliberations by the evidence as you remember it, the reasonable inferences which you believe should be drawn therefrom, and the law as given in these instructions.



#### INSTRUCTION NO.

As to Count I, if you find and believe from the evidence beyond a reasonable doubt:

- First, that on or about August 20, 2020, in the State of Missouri, the defendant caused the death of Sage Walston by shooting him, and
- Second, that it was the defendant knew or was aware that his conduct was practically certain to cause the death of Sage Walston, and
- Third, that the defendant did so after deliberation, which means cool reflection upon the matter for any length of time no matter how brief, and
- Fourth, that defendant was eighteen years of age of older at the time of the offense,

then you will find the defendant guilty under Count I of murder in the first degree.

However, unless you find and believe from the evidence beyond a reasonable doubt each and <u>all of</u> these propositions, you must find the defendant not guilty of that offense.

#### AS TO COUNT I, IF YOU FIND AND BELIEVE FROM THE EVIDENCE BEYOND A REASONABLE DOUBT:

First, that on or about November 11, 2017, in the State of Missouri, Patrick Powell caused the death of Rodney Thurber by shooting him, and

Second, that Patrick Powell knew or was aware that his conduct was practically certain to cause the death of Rodney Thurber, and

Third, that Patrick Powell did so after deliberation, which means cool reflection upon the matter for any length of time no matter how brief,

then you are instructed that the offense of murder in the first degree has occurred, and if you further find and believe from the evidence beyond a reasonable doubt:

Fourth, that defendant Caitlyn Riffle was eighteen years of age or older at the time of the offense, and

### MURDER IN THE SECOND DEGREE.

First, that on or about November 11, 2017, in the State of Missouri, Patrick Powell caused the death of Rodney Thurber by shooting him, and

Second, that it was Patrick Powell's purpose to cause serious physical injury to Rodney Thurber,

then you are instructed that the offense of murder in the second degree has occurred, and if you further find and believe from the evidence beyond a reasonable doubt:

Third, that with the purpose of promoting or furthering the commission of that murder in the second degree, the defendant Caitlyn Riffle aided or encouraged Patrick Powell in committing the offense,

then you will find the defendant Caitlyn Riffle guilty under Count I of murder in the second degree.

However, unless you find and believe from the evidence beyond a reasonable doubt each and all of these propositions, you must find the defendant **Caitlyn Riffle** not guilty of murder in the second degree.

### **DIFFERENCES**

#### **Murder 1**

#### Murder 2

#### First, that on or about November 11, 2017, in the State of Missouri, Patrick Powell caused the death of Rodney Thurber by shooting him, and

- Second, that Patrick Powell knew or was aware that his conduct was practically certain to cause the death of Rodney Thurber, and
- Third: <u>Deliberation</u> which means cool reflection upon the matter for any length of time no matter how brief,
- > Fourth: Eighteen years

That with the <u>purpose of promoting or furthering the death</u> of Rodney Thurber, the defendant <u>aided or encouraged</u> Patrick Powell in causing the death of Rodney Thurber, and did so after <u>deliberation</u>, which means cool reflection upon the matter for any length of time no matter how brief

- Second, that it was Patrick Powell's <u>purpose to</u> <u>cause Serious physical injury</u> to <u>Rodney Thurber</u>,
- As used in this instruction, the term "serious physical injury" means physical injury that creates a substantial risk of death or that causes serious disfigurement or protracted loss or impairment of the function of any part of the body.

That with the <u>purpose of promoting or furthering</u> <u>the commission</u> of that murder in the second degree, the defendant <u>aided or encouraged</u> Patrick Powell in committing the offense,

## **UNDISPUTED EVIDENCE**

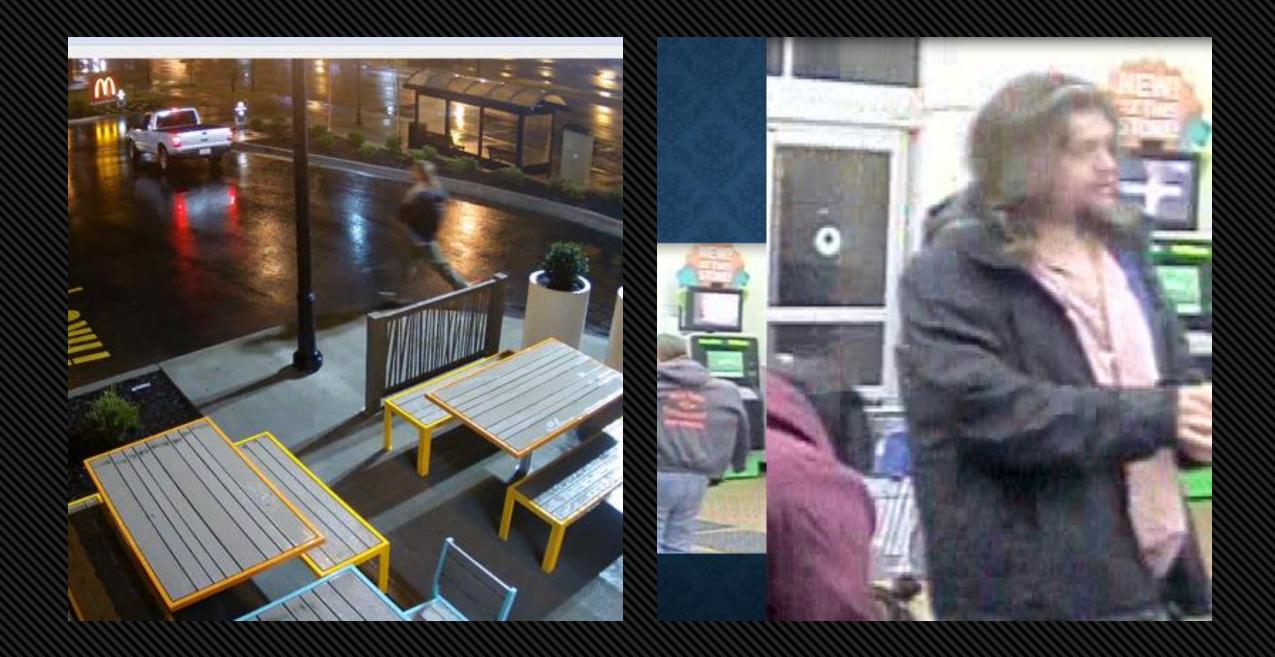
- Date, time, location
- 911 Calls and witnesses established
- Injuries suffered
- Rodney Thurber died from gunshot wounds
- Rodney Thurber was murdered
- Defendant's age at time of murder 12/28/1992

PATRICK POWELL CAUSED THE DEATH OF RODNEY THURBER BY SHOOTING HIM

**PATRICK POWELL KNEW OR WAS AWARE** THAT HIS CONDUCT WAS PRACTICALLY CERTAIN TO CAUSE THE DEATH OF RODNEY THURBER

#### > THAT PATRICK POWELL DID SO AFTER DELIBERATION

Fifth, that with the purpose of promoting or furthering the death of Rodney Thurber, the defendant Caitlyn Riffle aided or encouraged Patrick Powell in causing the death of Rodney Thurber, and did so after deliberation, which means cool reflection upon the matter for any length of time no matter how brief



Digital Video Snapshot Site: Store00573US Camera Name: DOOR, GM\_EXIT\_01 11/12/2017 6:43:48 PM (Central Standard Time)



Capture Size: 704 x 480 pixels Device Network Name: DVR02S00573US Device Serial Number: AR1612V056

Case Note 1- PROFILE EXITING

Digital Video Snapshot ite: Store00573US Camera Name: DOOR\_GM\_ENT\_02 1/12/2017 6:41:24 PM (Central Standard Time)





Digital Video Snapshot Site: Store00573US Camera Name: DOOR\_GM\_ENT\_02 11/12/2017 8:06:03 PM (Central Standard Time)



## The defendant Caitlyn Riffle <u>aided or encouraged</u> Patrick Powell in causing the death of Rodney Thurber

## **NOVEMBER 11, 2017**

- The Defendant drove a silver BMW and Patrick Powell was with her.
- The Defendant went to Rodney's house to retrieve a 380 handgun that belonged to Patrick's Powell's mom.
  - She previously left the gun with Nadia Cole

#### Rodney's phone call/messages to 816-602-1173

407	SMS Messages	Incoming	11/11/2017 07:47(UTC-6)	From: +18166021173	Hey fin allve again tol your girthlend stole my gus or chacked 8 off lin wondering how I should handle this best I will be hart if I don't get 8 back	
414	SM9 Messages	Outgoing	11/1U2017 13:43(UTC-6)	To: +18166021173	I just woke up. You okay?	
416	SMS Messages	Outpoing	11/11/2017 13:45(UTC-6)	Ta: +18166021173	Ok so whats up with the gun thing? Is that why you came out here the other night?	
419	SMS Messages	Incoming	11/15/2017 13:50(UTC-0)	From: +18160021173	Yeah I had her stash it for me and when I came back it had disappeant.	
420	SMS Messages	Outgoing	11/11/2017 12:61(UTC-0)	Ta: +18166021173	Ok i will get it for you and make sure you get it back	
421	SMS Messages	Incoming	11/11/2017 13:51(UTC-6)	Fram: +18166021173	Okay please as soon as possible. If hook you up with whatever this is important	
422	SMS Messages	Outgoing	11/11/2017 13:52(UTC-6)	Ta: +10160021173	Np i got you you should of told me about it call	
423	SMS Messages	knorming	11/11/2017 13:54(UTC-6)	From: +18166021173	I know you were gone when I got parinoid and she didn't want me to tell you because you would get mail	
424	SMS Messages	Outgoing	11/11/2017 13:55(UTC-6)	To: +18166021173	Np are will do better next time. Do you have anything?	
425	SMS Messages	Incerning	11/11/2017 13:56(UTC-6)	From: +18166021173	fits is coulern	
421	SMS Messages	Outgoing	11/11/2017 13:58(UTC-0)	Ta: +18100021173	Ok.I got the fire crackeryou think you could hook me up with some please	
427	SMS Messages	lescoming .	11/11/2017 13:58(UTC-0)	From: +18166021173	You bet thank you	
428	SMS Messages	Outgoing	31/11/2017 12:59(UTC-6)	7a: +18100021173	Np	

### NADIA COLE TESTIMONY

DEFENDANT'S STATEMENT Caitlyn left the gun days earlier
Caitlyn came over and retrieved the gun from Rodney not long before murder

Defendant multiple stories – changed every time evidence was presented – I got the gun and gave it rightful owner

### DEFENDANT'S TESTIMONY

 I don't remember, I lied to police about multiple things
 But its possible I was there, I didn't get the gun

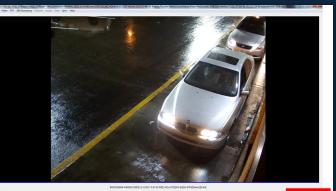
## Rodney's phone call/messages to 816-602-1173

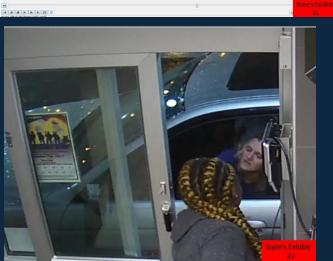
407	SMS Messages	Incoming	11/11/2017 07:47(UTC-6)	From: +18166021173	Hey I'm alive again loi your girlfriend stole my gun or clucked it off im wondering how I should handle this best I will be hurt if I don't get it back	
414	SMS Messages	Outgoing	11/11/2017 13:43(UTC-6)	To: +18166021173	I just woke up. You okay?	
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Nadia Testimony

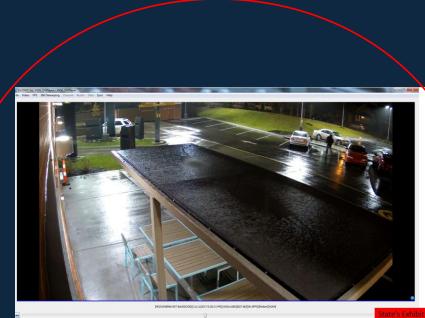
State's Exhibit 21 Was worried Rodney would be mad – told him about the gun











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State's Exhi



U.S. Department of Justice Buresu of Alcohol, Tobacco, Firearms and Explosives

Page 1 of 6

OMB No. 1140-0020 845 Firearms Transaction Record

WARNING: You may not receive a firearm if prohibited by Federal or State law. The information you provide will be used to determine whether you are prohibited from receiving a firearm. Certain violations of the Gun Control Act, 18 U.S.C. 921 ransferor's/Seller et. seq., are punishable by up to 10 years imprisonment and/or up to a \$250,000 fine. Number (If any) Read the Notices, Instructions, and Definitions on this form. Prepare in original only at the licensed premises ("licensed premises"

1-27 include business transportely conducted from a qualifying gain whore or event in the same State in such the diensed groudes is foculed unless the transaction qualifies under 18 U.S.C. 922(c). All earlies must be handwritten in Ink. "PLEASE PRINT." Section A.- Must De Completed Personally by Transferee/Buyer Transferee VBayer's Full Name (f/legal runa contains on hilliof only, record '10" after the Initial. If no middle initial or name, record 'WMN''.)
Last Name (inclusing suffix (e.g., Jr, Sr, II, III)) [First Name powell stephanie teresa 2. Current State of Residence and Address (U.S. Postal abbreviations are acceptable. Cannot be a post office box.) Number and Street Address 702 16th ave s State ZIP Code 4 MO 84043 69/24 640/34 City 3. Place of Birth 4. Height 5. Weight 6. Sex 7. Birth Di (*Lbz.*) ☐ Male Month In <u>3</u> 135 ☑ Female 01 7. Birth Date U.S. City and State -OR- |Foreign Country ] Day Year honolulu Hi Ina 1968 S. Social Security umber (Optional, betwill help) otlonal, bat will help present miniderrification)
9. Unique Personal Identification Number (19710) if applicable (Goe Instructions for Question 9.) 9000
9. 10.6. Race (In addition to ethnicity, select one or more race in 18.6. Both Id.a. and 10.6. must be answered.)
10.6. Race (In addition to ethnicity, select one or more race in 18.6. Both Id.a. and 10.6. must be answered.) 10.8. Ethnicity Hispanic or Latino American Indian or Alaska Native [7] Black or African American White White Yorking or Landson (Charles Andream)
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 Mo Yes No b. Are you under indictment or information in any court for a felony, or any offser crime for which the judge could imprison you for more than one year? (See Instructions for Question 11.5.) c. Have you ever been convicted in any court of a felony, or any other crime for which the judge could have imprisoned you for more than one year, even if you received a shorter sentence including probation? (See Instructions for Quantion II.c.) × d. Are you a fugitive from justice? (See Instructions for Question 11.d.) X e. Are you an unlawful user of, or addicted to, marijuana or any depressant, stimulant, narcotic drug, or any other controlled substance? 
 Warding: The use or possession of marifusian a remains university multiplication in a scale or using, wing volute controls on solution of marifusian a remains university multiplication and the scale of t X for Question 11.f.)  $\boxtimes$ 

g. Have you been discharged from the Anned Forces under dishonorable conditions? h. Are you subject to a court order restraining you from harassing, stalking, or threatening your child or an intimate partner or child of such partner? (See Instructions for Question 11.h.) i. Have you ever been convicted in any court of a misdemeanor trime of domestic violence? (See Instructions for Quertien 11.1.) 12.a. Country of Citizenship: (Check/List more than one, if applicable. Nationals of the United States may check U.S.A.) United States of America (U.S.A) Other Country/Countries (Specify): 12.b. Have you ever renounced your United States citizenship? 12.c. Are you an alien illegally or unlawfully in the United States'

12.d) 🗌 🕅 12.d.1. Are you an alien who has been admitted to the United States under a nonimmigrant visa? (See Instructions for Quantion 12.d.) 12.d.2. If "yes", do you fall within any of the exceptions stated in the instructions? 13. If you are an alian, record your U.S.-Issued Alian or Admission mumber (ARit USCISE, or 1948). Previous Editions Are Obsolate

Transferee/Buyer Continue to Next Page STAPLE IF PAGES BECOME SEPARATED

702 16<sup>th</sup> Ave South Greenwood, MO



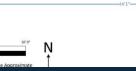


Crime Scene

Lab Record #: 17-096193 #4

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17-05	96193 Homicide	
461	6 Tracy Ave #B	
Vic: TI	hurber,Rodney V	
(W/I	M 10/09/1965)	
CST Allis	on Bennett #17194	
nic	DR. SH	

Report Date:

nu

March 8, 2018

### **DIFFERENCES**

#### **Murder 1**

#### Murder 2

First, that on or about November 11, 2017, in the State of Missouri, Patrick Powell caused the death of Rodney Thurber by shooting him, and

- Second, that Patrick Powell knew or was aware that his conduct was practically certain to cause the death of Rodney Thurber, and
- Deliberation which means cool reflection upon the matter for any length of time no matter how brief,
  Eighteen years

That with the purpose of promoting or furthering the death of Rodney Thurber, the defendant <u>aided or encouraged</u> Patrick Powell in causing the death of Rodney Thurber, and did so after deliberation, which means cool reflection upon the matter for any length of time no matter how brief

- Second, that it was Patrick Powell's <u>purpose to</u> <u>cause Serious physical injury</u> to <u>Rodney Thurber</u>,
- As used in this instruction, the term "serious physical injury" means physical injury that creates a substantial risk of death or that causes serious disfigurement or protracted loss or impairment of the function of any part of the body.

That with the <u>purpose of promoting or furthering</u> <u>the commission</u> of that murder in the second degree, the defendant <u>aided or encouraged</u> Patrick Powell in committing the offense;

## **MURDER IS WHAT HAPPENED**

## FIRST DEGREE OR SECOND DEGREE

 Deliberation which means cool reflection upon the matter for any length of time no matter how brief...

- · Does not have to be an elaborate plan... but there was a plan here
- Drop Powell off with the Gun, sneak up on the victim on foot, open fire when door opens run back to Defendant
- Defendant waited for Powell and get back to Independence

# State's Rebuttal Closing



- Remember what you told them in opening reinforce it
- Remember what the defense told them in opening destroy it
- O Build on what was done in first half
- O Be ready with certain arguments for issues the defense will highlight
- O Be ready to object but not too much
- Have an outline of points you want to make
- Still use a power point reinforce your arguments with evidence and facts

# As to Count I, if you find and believe from the evidence beyond a reasonable doubt

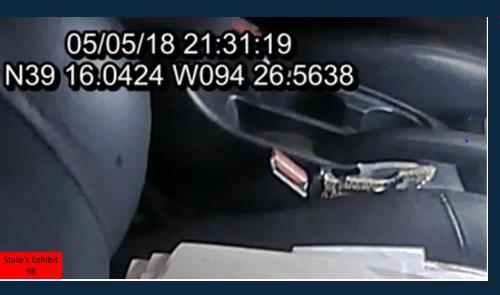
First, that on or about May 5, 2018, in the State of Missouri, the defendant caused the death of Cody Harter by stabbing him and,

Second, that it was the defendant's purpose to cause serious physical injury to or cause the death of Cody Harter, and

Third, that defendant did not act in lawful self-defense as submitted in instruction No. <u>11</u>,

# Second, that it was the defendant's purpose to cause serious physical injury to or cause the death of Cody Harter, and

• As used in this instruction, the term "<u>serious physical injury</u>" means physical injury that creates a <u>substantial risk of death</u> or that causes serious disfigurement or protracted loss or **impairment of the function of** <u>any part</u> <u>of the body.</u>



#### Significant Force

- > Through skin
- $\succ$  Through a rib
- > Through a lung
- 2 inches into heart



# As to Count I, if you find and believe from the evidence beyond a reasonable doubt

First, that on or about May 5, 2018, in the State of Missouri, the defendant caused the death of Cody Harter by stabbing him and,

Second, that it was the defendant's purpose to cause serious physical injury to or cause the death of Cody Harter, and

Third, that defendant did not act in lawful self-defense as submitted in instruction No. 11,

# Third, that defendant did not act in lawful self-defense as submitted in instruction No. <u>11</u>,

#### **Witnesses Testimony**

 $\rightarrow$ <u>Three people</u> – in two different cars

 $\rightarrow$ On each side of the 291/470 split

 $\rightarrow$  Passed them on different sides

ALL SAY Blonde male (Cody) had hands UP

ALL SAY Older Male (Defendant)

 $\rightarrow$  throwing a punch or pushing with fist



Near the **driver side door** of the truck

# Defendant's Statement May 9, 2018

- $\rightarrow$  Denied talking to anyone in Lee's Summit
- $\rightarrow$  Denied stopping in highway

Then changed to  $\rightarrow$  some one yelled merger lane but no stopping- no one got of vehicle

Then changed to → stopping but only guy got out an came back to him and yelled it's a merger lane. Defendant Only started to get out of car but he didn't.

Then changed to  $\rightarrow$  He did get out of his car, guy said it's a merger lane bro – and he went on his way.

The other guy was not mad, not pissed, not aggressive

NO PUSHING, NO SHOVING, NO PHYSICAL ALTERCATION

# No option but to make up a story

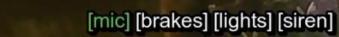


#### Matches physical description

- Older White male
- Bald or short dark hair
- Black shirt
- Jeans
- Dark shoes
- Facial hair hanging past chin

#### <u>Car matches</u>

- Four door sedan
- Grey
- Letters "PR" start license plate



State's Exhibit

101

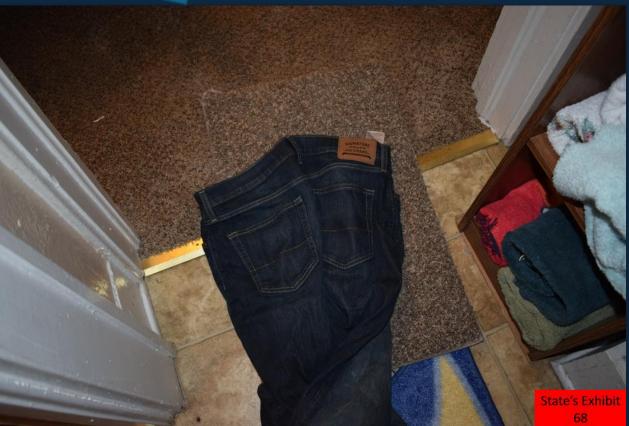
05/05/18 21:20:53 N39 16.0416 W094 26.5637

> Nathan Callaway Body

# No option but to make up a story

# <u>Cody's DNA</u>





# No option but to make up a story

## **Gayla Rountree**

→Defendant showed up late to her house night of murder
→Defendant said he stabbed someone
→Defendant said he killed someone
→Defendant said he saw the victim fall in the road
→Defendant had knife, said he stop and cleaned it

## **Defendant Testimony now 3 years later**

- Defendant driving crazy
- Defendant passed on the shoulder
- Cody points he thinks car trouble
- Defendant stop his car blocking Cody's truck
- Defendant gets out of his car
- Cody yells it's a merger lane
- Defendant armed with his quick release knife
- Defendant walks back towards Cody
- That's why you pulled me over, waving his finger at him
- Cody hands are up in the air
- Cody smiles and says let's move back here
- They go in between vehicles
- Cody stops smiling
- Cody grabs his left arm
- He instantly pulls his knife and stab him
- Not thinking just instincts





State's Exhibit 12

# An <u>"initial aggressor"</u> is one who first attacks or threatens to attack another.

#### INSTRUCTION NO. 11

One of the issues as to Count I in this case is whether the use of physical force by the defendant against Cody Harter was lawful. On the issue of self-defense as to Count I in this case, you are instructed as follows:

In this state the use of physical force, including the use of deadly force, to defend oneself is lawful in certain situations.

However, an initial aggressor is not justified in using physical force to defend himself from

the counter attack that he provoked.



Multiple Witnesses say  $\rightarrow$  Defendant aggressor – victim hands up

But for → the Defendant driving crazy, passing Cody on the shoulder But for → the Defendant stopping his car in traffic in front of Cody's Truck But for → the Defendant confronting Cody – getting out his car walking back to Cody - Armed with Knife In order for a person lawfully to use non-deadly physical force in self-defense, he must

reasonably believe such physical force is necessary to defend himself from what he reasonably

believes to be the use or imminent use of unlawful force and he can only use physical force to the

extent that he reasonably believes is necessary to defend himself.

But a person is not permitted to use deadly force unless he reasonably believes that the use

of deadly force is necessary to protect himself against a forcible felony.

As used in this instruction, the term <u>"reasonably believe"</u> means a belief based on reasonable grounds, that is, grounds that could lead a reasonable person in the same situation to the same belief. This depends upon how the facts <u>reasonably appeared</u>. It does not depend upon whether the belief turned out to be true or false.

# As to Count I, if you find and believe from the evidence beyond a reasonable doubt

First, that on or about May 5, 2018, in the State of Missouri, the defendant caused the death of Cody Harter by stabbing him and,

Second, that it was the defendant's purpose to cause serious physical injury to or cause the death of Cody Harter, and

Third, that defendant did not act in lawful self-defense as submitted in instruction No. <u>11</u>,

# Difficult tasks

- Numerous counts lots of instructions
- Self Defense instructions
- Witness changes give new testimony in trial