

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!



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

Things to do!

- Project confidence – not smug or cocky
- Project Honesty
- Show passion
- Be articulate
- Be energetic but not fast
- Be respectful
- 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
- 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 firmly convinced of the defendant's guilt. The law does not require proof that overcomes every possible doubt. 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.

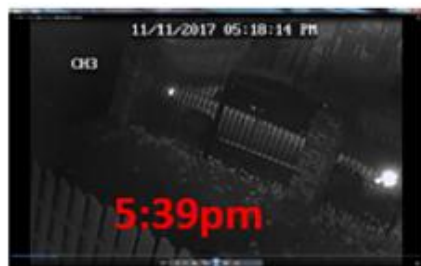
INSTRUCTIONS

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.



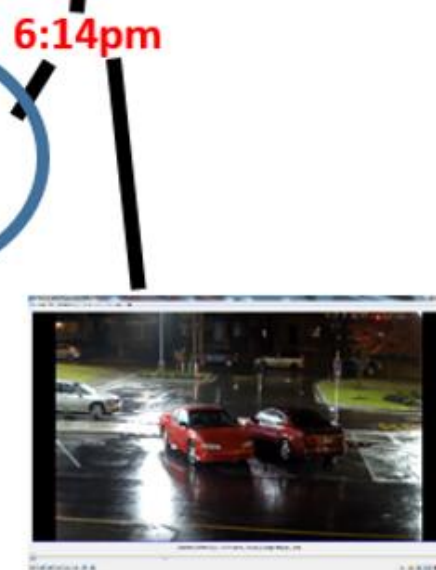
Nov 11, 2017

Nov 12, 2017

5:35pm
Rifle/Victim
Text Messages



911 called



8:09pm



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 or 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 all of 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

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: **Deliberation** which means cool reflection upon the matter for any length of time no matter how brief,
- Fourth: **Eighteen years**

That with the purpose of promoting or furthering the death of Rodney Thurber, the defendant **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

Murder 2

- Second, that it was Patrick Powell's **purpose to cause serious physical injury to Rodney Thurber,**
- 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 purpose of promoting or furthering the commission of that murder in the second degree, the defendant **aided or encouraged** 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

State's Exhibit

Case Note 1: PROFILE EXITING



State's Exhibit
122

Digital Video Snapshot
Site: Store00573US
Camera Name: DOOR_GM_ENT_02
11/12/2017 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 aided or encouraged 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 I'm alive again lol 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?
416	SMS Messages	Outgoing			11/11/2017 13:45(UTC-6)	To: +18166021173	Ok so whats up with the gun thing? Is that why you came out here the other night?
419	SMS Messages	Incoming			11/11/2017 13:50(UTC-6)	From: +18166021173	Yeah I had her stash it for me and when I came back it had disappeared...
420	SMS Messages	Outgoing			11/11/2017 13:51(UTC-6)	To: +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)	From: +18166021173	Okay please as soon as possible, ill hook you up with whatever this is important
422	SMS Messages	Outgoing			11/11/2017 13:52(UTC-6)	To: +18166021173	Np i got you.you should of told me about it call
423	SMS Messages	Incoming			11/11/2017 13:54(UTC-6)	From: +18166021173	I know you were gone when I got paranoid and she didn't want me to tell you because you would get mad
424	SMS Messages	Outgoing			11/11/2017 13:55(UTC-6)	To: +18166021173	Np we will do better next time. Do you have anything?
425	SMS Messages	Incoming			11/11/2017 13:56(UTC-6)	From: +18166021173	I'm in routen
426	SMS Messages	Outgoing			11/11/2017 13:56(UTC-6)	To: +18166021173	Ok.I got the fire cracker...you think you could hook me up with some please
427	SMS Messages	Incoming			11/11/2017 13:58(UTC-6)	From: +18166021173	You bet thank you
428	SMS Messages	Outgoing			11/11/2017 13:59(UTC-6)	To: +18166021173	Np

NADIA COLE TESTIMONY

DEFENDANT'S STATEMENT

DEFENDANT'S TESTIMONY

- 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

➤ I don't remember, I lied to police about multiple things

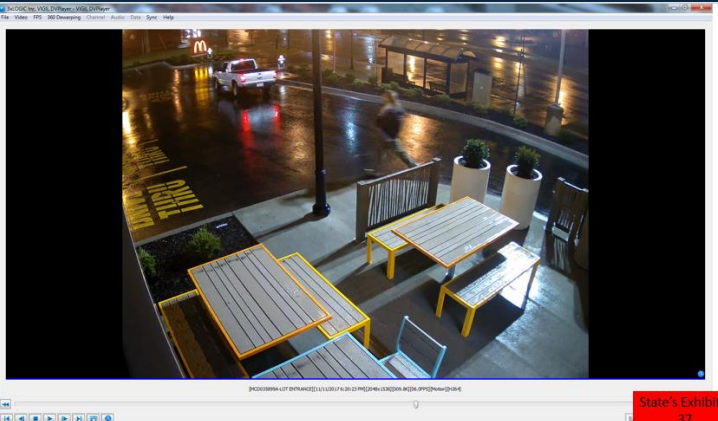
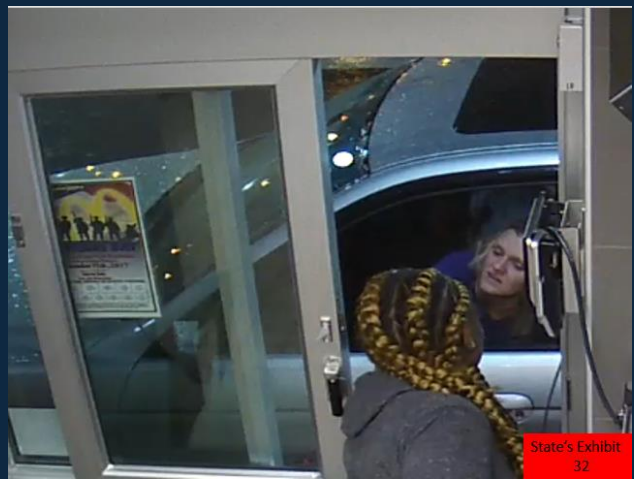
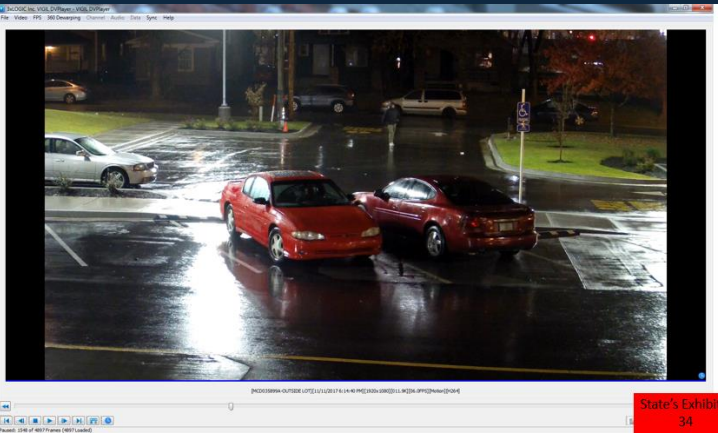
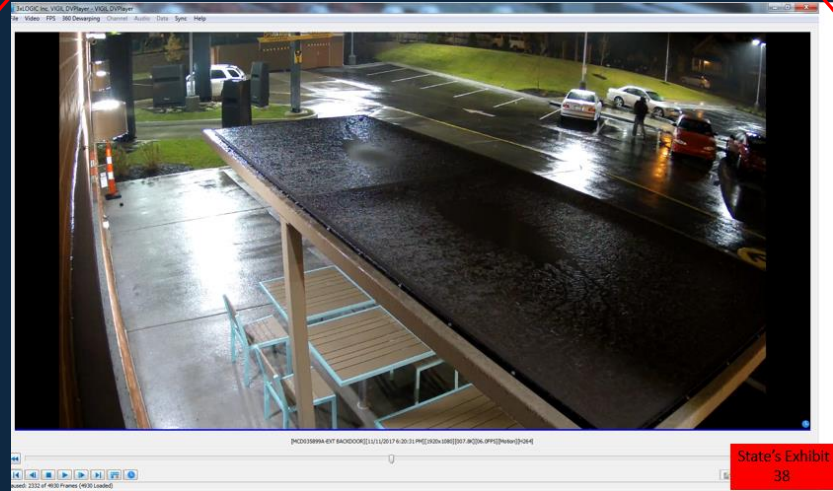
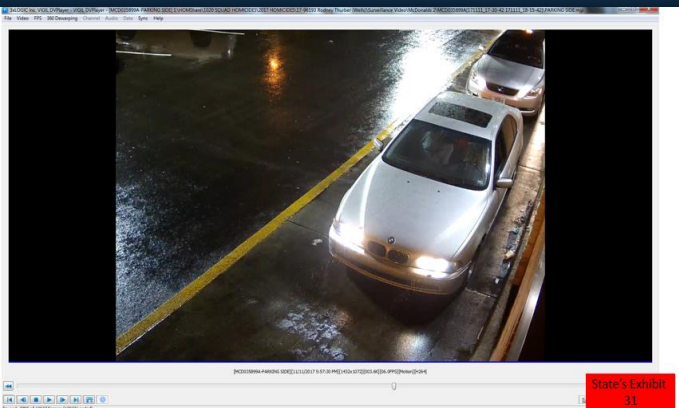
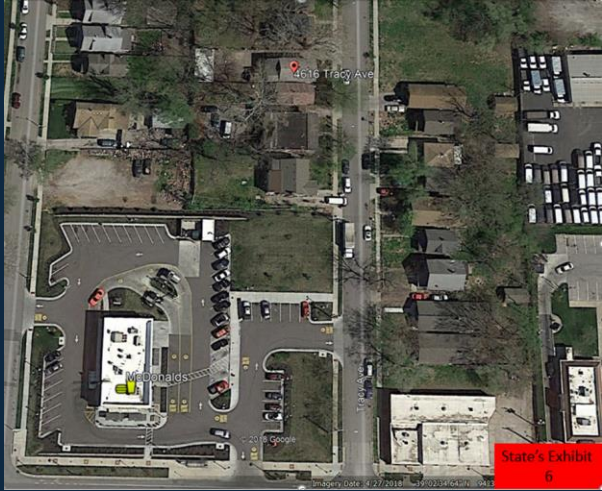
➤ But its possible I was there, I didn't get the gun

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

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Nadia Testimony

- Was worried Rodney would be mad – told him about the gun



DIFFERENCES

Murder 1

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 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~~

Murder 2

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

• 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 purpose of promoting or furthering the commission of that murder in the second degree, the defendant aided or encouraged 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
- Build on what was done in first half
- Be ready with certain arguments for issues the defense will highlight
- 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. 11,

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 “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.



Significant Force

- Through skin
- 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,

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Witnesses Testimony

→ Three people – in two different cars

→ On each side of the 291/470 split

→ Passed them on different sides

ALL SAY Blonde male (**Cody**) had hands UP

ALL SAY Older Male (**Defendant**)

→ throwing a punch or pushing with fist

Near the driver side door of the truck



State's Exhibit
4

Defendant's Statement May 9, 2018

→ Denied – talking to anyone in Lee's Summit

→ Denied – stopping in highway

Then changed to → 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 → 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

Car matches

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

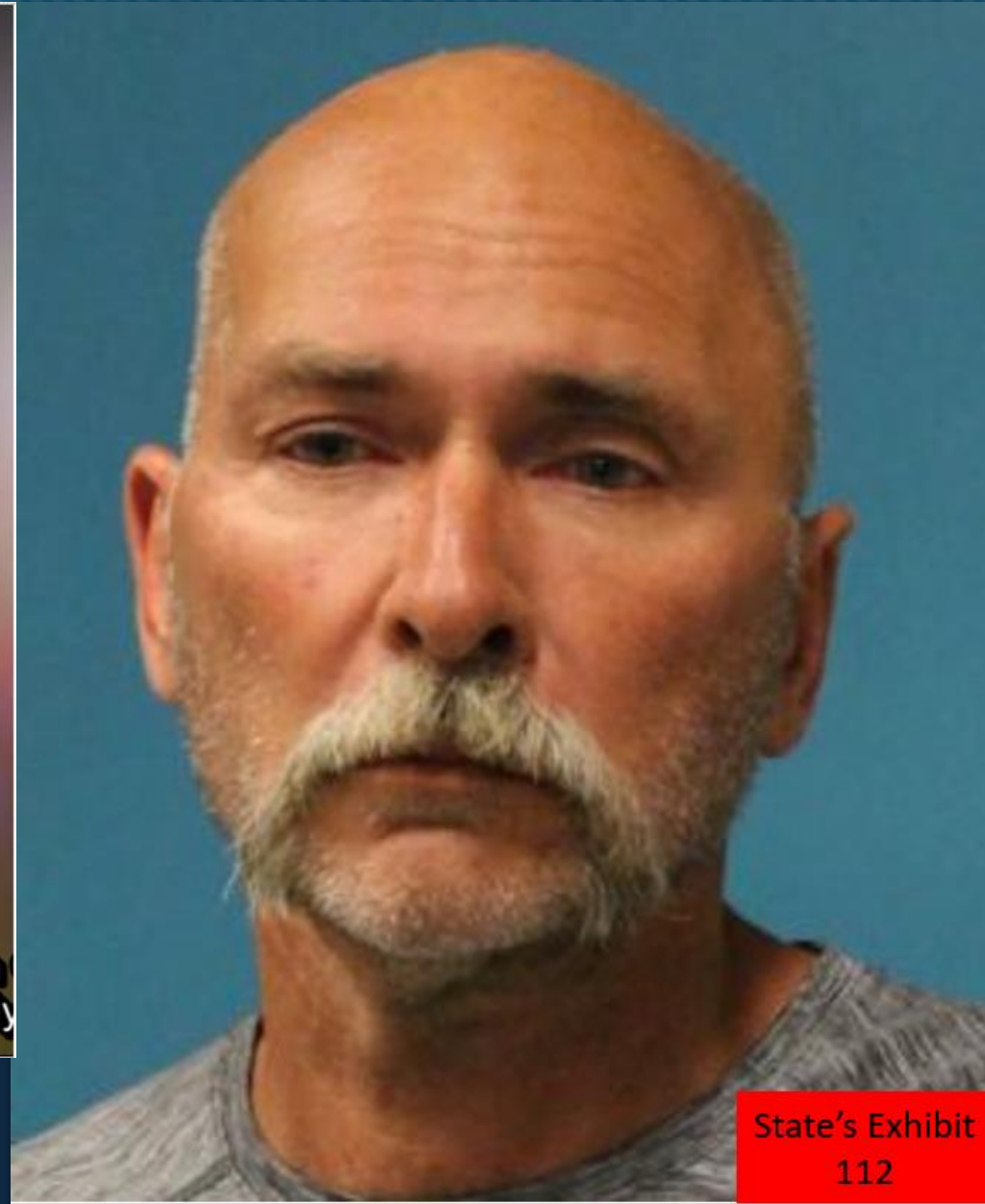
05/05/18 21:20:53
N39 16.0416 W094 26.5637



[mic] [brakes] [lights] [siren]

Nathan
Callaway Body

State's Exhibit
101



State's Exhibit
112

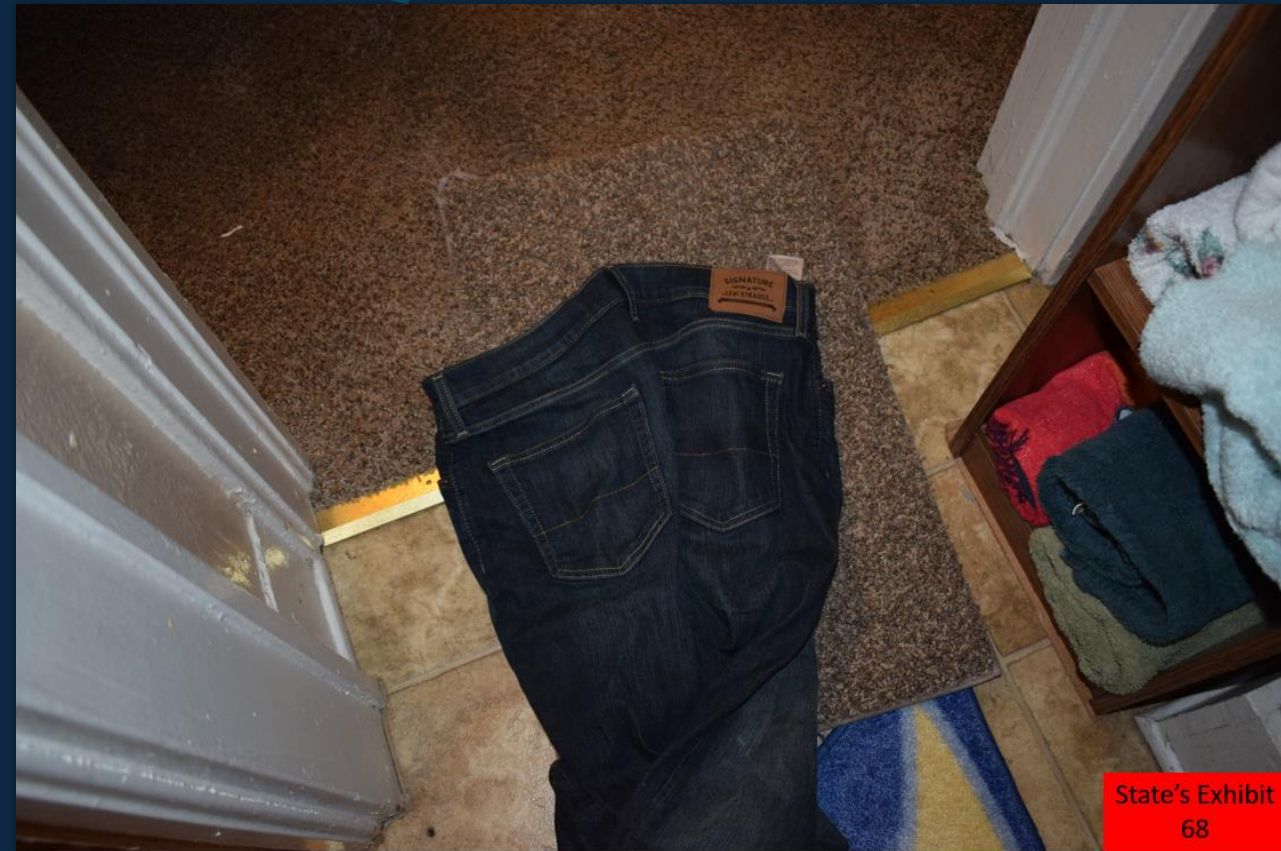
No option but to make up a story

Cody's DNA



Front Driver's Side Door (IMG 3961)

State's Exhibit
48



State's Exhibit
68

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





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Google Earth

An “initial aggressor” 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.



Defendant
Was the initial
aggressor

Multiple Witnesses say → 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 “reasonably believe” 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 reasonably appeared. 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. 11,~~

Difficult tasks

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