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### **State v. Dalton Closing Argument Draft**

#### **Introduction**

Good afternoon your Honor and may it please the court. My name is Applicant and I represent the State in the prosecution of Adam Dalton (hereinafter "Defendant") for the killing of Ms. Laura Vons. Defendant has been charged with the second degree murder and the lesser included offense of involuntary manslaughter. We respectfully ask this court to find Defendant guilty on both counts based on the evidence the State has presented at trial.

#### **Second Degree Murder**

In the early hours on November 30th, 2023, shortly after Defendant had been released from custody on bail, Defendant texted Ms. Vons' to come to his house to party; weighed his marijuana, counted money, and eventually used a .38 revolver to take Mr. Vons' life. The California Penal Code defines second degree murder as 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." In order to determine whether Defendant is guilty of second degree murder we must establish that he acted with malice aforethought.

#### **Malice Aforethought**

Malice aforethought may be proven through several actions such as through implied malice, which the CPC defines as "circumstances attending the killing show an abandoned and malignant heart." Under this subjective test, the circumstances must illustrate that the defendant acted with a malignant heart. The court of appeals in *State v. McNally* held that "brandishing a loaded firearm at a person is an act dangerous to human life." Here, Defendant waived and brandished the weapon he owned in his girlfriend's face. In doing so, he acted with sufficient intent to show a malignant heart because the action is so grossly negligent that a reasonable person would not act similarly. In assessing Defendant's frame of mind, his testimony is relevant because it was directly contradictory to evidence he stated when he was initially arrested. Even if Defendant can establish that he did not know the gun was loaded, the Ellen Donato's testimony prevents Defendant's actions from being excusable in any way. Rather, his actions were the cause of Ms. Vons' death because there should have been multiple safeties on the gun and there failed to be. Despite the risk, it is an established and undisputed fact that Defendant brandished the weapon around - unloaded or not. Defendant was aware of the potential risks and still chose to act in a way that would be incredibly likely to cause death. When applying both the court of appeals holdings from the *State of McNally* and the *State of Reid*, the courts make it clear that the reckless disregard for human life in acts that are likely to cause death should not be tolerated.

Therefore, Defendant should be found guilty of second degree murder because his killing and behavior caused the death of Ms. Vons' on that early autumn morning.

#### **Involuntary Manslaughter**

Even if this court determines that the Defendant lacked the requisite malice aforethought required to be guilty of second degree murder; Defendant should be found guilty of involuntary manslaughter because

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his actions proximately caused the death of Ms. Vons' when he shot her with his revolver on the early fall morning of the crime. The Columbia Penal Code defines involuntary manslaughter as "a killing in the commission of a lawful act which might produce death, in an unlawful manner, or without due causation and circumspection." Thus in order to determine whether Defendant is guilty of involuntary manslaughter, we must assess conduct to determine whether they were reckless or reasonable, and whether Defendant caused Ms. Vons' death.

#### Defendant Acted Recklessly

The court of appeals in *State v. Freud* heard a similar case regarding a defendant's appeal from an involuntary manslaughter conviction of his wife after he used a .45 caliber army type semi-automatic pistol to kill her. The court held that "firearms have been recognized as a dangerous instrumentality because of their great potential harm and in the interests of preservation of human life and safety, a high degree of care was demanded of those who use them." The defendant in the aforementioned case was a former in the military, knew the weapon was not loaded so he intentionally, loaded it, and subsequently handed it his wife. In his attempt to show her how to use the weapon, the gun went off killing her. Similarly, Defendant in this case used a weapon he owned and had in his possession to kill his significant other.

#### Causation

Defendant's conduct proximately and actually caused Ms. Von's death. Although Defendant may argue that the death was an accident, he acted with gross and reckless disregard for human life when he pointed a gun at her. On direct testimony, Defendant provided contradictory testimony to statements previously made and opined to by law enforcement Detective Liam Paul. Defendant previously stated knowing the gun was loaded, but on direct examination he stated that he did not know. Regardless of whether Defendant knew the gun was loaded, his actions proximately caused the death of Ms. Vons. Defendant may argue that this discrepancy creates a doubt, however under the causation standard it is clear that Defendant caused Ms. Vons' death when he recklessly pointed a gun at her face. In addition to shooting her, Defendant failed to provide immediate medical attention. Rather, Defendant immediately went to wash his gun off in the bathroom. Defendant claims he told his roommate to call 911, however his inability to provide care and attempt to destroy evidence only highlight the reckless disregard for human life.

Thus, Defendant should be found guilty of involuntary manslaughter because the State has proven beyond a reasonable doubt that he acted with reckless disregard sufficient to show a lack of human life. A conviction of involuntary manslaughter is appropriate here.

#### **Conclusion**

It is for the aforementioned reasons that we respectfully ask this court to return guilty verdicts on both of the charged crimes. Defendant killed Ms. Vons when he shot her in the face with the revolver he owned. Defendant did not act as a reasonable person and he is directly responsible for Ms. Vons' death.

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**END OF EXAM**