

Judge reading jury instructions to jury:

1712

1 KILLIN
2 THAT
3 HIM OR
4 PERSON
5 NECESS
6 BODILY

BELIEVE
- KILL
ONABLE
IT WAS
GREAT

ADDED COMMENTARY
THE JURY NEVER WERE ALLOWED TO SEE ANY EVIDENCE OF "CIRCUMSTANCES THAT WOULD EXCITE FEARS" SUFFICIENT TO JUSTIFY KILLING --

7 IN ORDER TO JUSTIFY KILLING ANOTHER PERSON IN SELF-
8 DEFENSE, ACTUAL DANGER OR GREAT BODILY INJURY IS NOT
9 NECESSARY. ON THE OTHER HAND

ADDED COMMENTARY
IN ORDER TO JUSTIFY A KILLING,
11 IT MUST BE ESTABLISHED, ONE, THE CIRCUMSTANCES MUST BE
12 SUFFICIENT TO EXCITE THE FEARS OF A REASONABLE PERSON THAT
13 THERE WAS IMMINENT DANGER OF DEATH OR GREAT BODILY HARM AND,
14 TWO, THE PARTY MUST HAVE ACTED UNDER THE INFLUENCE OF SUCH
15 FEARS ALONE AND UNDER THE BELIEF THAT SUCH KILLING WAS
16 NECESSARY TO SAVE HIMSELF FROM DEATH OR GREAT BODILY INJURY.

18 DEFEND HIMSELF FROM ATTACK IF, AS A REASONABLE PERSON, HE HAS
19 GROUNDS FOR BELIEVING AND DOES BELIEVE THAT BODILY INJURY IS
20 ABOUT

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23 SIMIL
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26 THE E

ADDED COMMENTARY
...ALL SUCH EVIDENCE WAS HIDDEN FROM THE JURY BY BOTH ATTORNEYS, INCLUDING THE DOORJAMB, DOOR KNOB, MEATCLEAVER, AND ALL ELSE

27 IN THE EXERCISE OF HIS RIGHT OF SELF-DEFENSE, HE MAY STAND HIS
28 GROUND AND DEFEND HIMSELF BY THE USE OF ALL FORCE AND

EXHIBIT
II
5 PAGES

Secret proceedings unknown to Lazor, with prosecutor, Schroeder and judge deciding which instructions jury will get to know of:

1539

1 THE COURT: HE HAD AN HONEST AND UNREASONABLE
2 BELIEF, HONEST BUT UNREASONABLE BELIEF THAT HE WAS ABOUT TO
3 PERHAPS BE ASSAULTED OR NOT, RIGHT?

4 MR. SCHROEDER: IN FACT, I DON'T THINK -- I THINK
5 THERE IS A VERY GOOD ARGUMENT IN THE CASE THAT IT WASN'T AN
6 UNREASONABLE BELIEF AT ALL BECAUSE THE GUN LOOKS VERY REAL AND
7 THE POLICEMEN EVEN THOUGHT IT WAS A REAL GUN WHEN THEY FIRST
8 SAW IT, AND THAT WAS THE REASON FOR THE REQUESTED INSTRUCTION.

9 THE COURT: THEN IF HE HAS AN HONEST AND REASONABLE
10 BELIEF, THEN HE'S ENTITLED TO A WALK ON SELF-DEFENSE, ISN'T
11 HE?

ADDED COMMENTARY

JUST BEFORE JURY DELIBERATIONS:

14
15 APPR
16
17 IT.

*COURT/JUDGE ACKNOWLEDGES THAT NO EVIDENCE
OF THE ATTACKER'S VIOLENT FORCE WAS EVER
SUBMITTED IN TRIAL -- THE JURY HAD NO CLUE.
(WHAT THEN WAS THE PURPOSE FOR A TRIAL?)*

ING
IVE

18
19 UNDERSTAND WHAT THE COURT IS SAYING. I HEARD WHAT YOU SAID
20 BUT I DON'T UNDERSTAND IT.

21 MR. HAMES: IF YOU HAVE BOTH ELEMENTS OF HONESTY AND
22 REASONABLENESS, --

23 THE COURT: THEN YOU ARE ENTITLED TO A COMPLETE

24
25 MR. SCHROEDER: I KNOW THAT, BUT WHAT I AM SAYING IS
26 THAT LOOKING AT THIS INSTRUCTION, IF ALLRED INTENDED TO MAKE
27 IT APPEAR THAT HE COULD KILL LAZOR, --

28 THE COURT: WE HAVE TO FIND -- YOU WOULD HAVE TO

CONTINUED

II-2

CONTINUATION

Secret proceedings unknown to Lazor, with prosecutor, Schroeder and judge deciding which instructions jury will get to know of:

1540

1 FIND THAT HE MADE AN ATTEMPT TO COMMIT A FORCIBLE AND
2 ATROCIOUS CRIME. WHAT DO WE KNOW? ALL WE KNOW IS THAT HE MAY
3 HAVE HAD A BB GUN IN HIS HAND AND HE KICKED THE DOOR. NEITHER
4 ONE OF THOSE -- 417 ISN'T A FORCIBLE AND ATROCIOUS CRIME, IS
5 IT?

6 MR. SCHROEDER: NO, BUT I THINK THAT IT'S ARGUABLE
7 THAT A FORCIBLE ENTRY INTO SOMEBODY'S ROOM THAT'S LOCKED IS.

8 THE COURT: IS A FORCIBLE AND ATROCIOUS CRIME?
9 HARDLY.

10 MR. SCHROEDER: OKAY. I WILL WITHDRAW IT.

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12 IN THE PEOPLE'S PACKET, OR IS IT?

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ADDED COMMENTARY

SCHROEDER JOINS WITH THE JUDGE AND PROSECUTOR TO SECRETLY WITHDRAW THE 2 MAIN SELF-DEFENSE JURY INSTRUCTIONS OF THE CASE, SO THE JURY NEVER KNEW THEY EXISTED -- NEVER TELLING LAZOR THIS OCCURRED

THAT

IS,

RE

WE?

MR. SCHROEDER: NO, WE ARE NOT, BUT IT'S VERY MUCH A PART OF WHAT'S GOING ON IN THIS CASE, AND I WOULD AT LEAST LIKE THE JURY TO KNOW THAT --

THE COURT: ASSAULT WITH THE FISTS, WHICH IS ALLRED, DOES NOT JUSTIFY THE PERSON BEING ASSAULTED AND USING A DEADLY WEAPON IN SELF-DEFENSE. THAT WOULD BE AT THE SAME TIME, NOT AT SOME FUTURE TIME.

MR. SCHROEDER: NO, BUT I AM TALKING ABOUT THE FACT

Jury instructions -NOT GIVEN TO JURY, refused and withdrawn in secret proceedings, unknown to Lazor:

DEFENDANT'S REQUEST INSTRUCTION NO. 9

FORCIBLE AND ATROCIOUS CRIME-DEFINED

A forcible and atrocious crime, as the term is used in these instructions, is any felony, the character and manner of the commission of which threatens, or is reasonably believed by the defendant to threaten, life or great bodily injury so as to cause in him a reasonable fear of death or great bodily injury.

Murder is a forcible and atrocious crime.

CALJIC 5.16 as Modified

GIVEN
GIVEN AS MODIFIED
REFUSED
WITHDRAWN ✓
COMMENT



JUDGE

CLERK'S TRANSCRIPTS (CT), PAGE 352

ADDED COMMENTARY:

JURY NEVER KNEW ABOUT THIS INSTRUCTION, as the evidence warranting it was concealed, destroyed, altered, etc.

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Jury instructions -NOT GIVEN TO JURY, refused and withdrawn in secret proceedings, unknown to Lazor:

DEFENDANT'S REQUESTED INSTRUCTION NO. 8

JUSTIFIABLE HOMICIDE-LAWFUL DEFENSE OR SELF OR ANOTHER

Homicide is justifiable and not unlawful when committed by any person in the defense of himself if a reasonable man in a like situation would believe that the person killed intended to commit a forcible and atrocious crime and that there was imminent danger of such crime being accomplished. A person may act upon appearances whether such danger is real or merely apparent.

CALJIC 5.13 (1974 Revision) Exact Copy

GIVEN
GIVEN AS MODIFIED
REFUSED
WITHDRAWN ✓
COMMENT

JUDGE 

CLERK'S TRANSCRIPTS (CT), PAGE 353

ADDED COMMENTARY:

The jury also never knew about this instruction — the main, standard self-defense instruction for murder cases; which was the whole purpose for holding a trial.

Lazor never knew these instructions were withheld from the jury; as he was always assured that they were given to the jury.

0353