

IN THE CIRCUIT COURT FOR PINELLAS COUNTY, FLORIDA
15-00226-CF
SECTION I

STATE OF FLORIDA

Vs.

JOHN NICHOLAS JONCHUCK, JR Person ID: 2923683

MOTION FOR REBUTTAL ARGUMENT

Comes now the Defendant, by and through his undersigned attorney, and moves this Honorable Court to allow the defense rebuttal argument upon the close of the case and grounds would show that;

1. Defendant was arrested and indicted for First degree murder.
2. The Defendant is alleged to have killed his daughter in a premeditated manner on January 8, 2015.
3. The defendant entered a not guilty plea on January 12, 2015.
4. Florida Statute 775.027 authorizes insanity as a defense to the crime alleged against the Defendant.
5. The Defendant filed a Notice of Intention to Rely on Defense of Insanity and Statement of Particulars on August 15, 2017.
6. The Defendant filed a Second Amended Notice of Intention to Rely on Defense of Insanity and Statement of Particulars on October 15, 2018.
7. The case is set for Trial on March 18, 2019.
8. Florida Statute §775.027 provides that the defendant has the burden of proving the defense of insanity by clear and convincing evidence.
9. Florida Rule of Criminal Procedure 3.381 provides for closing argument by the parties to the trier of fact at the close of all evidence.
10. Fla. R. Crim. P 3.381 provides that the prosecution shall be entitled to an initial closing argument and a rebuttal closing argument.
11. Fla. R. Crim. P 3.381 was adopted pursuant to the enactment of §918.19, Fla. Stat. (2006)

12. §918.19 Fla. Stat. (2006) entitled Closing Argument States, “ As provided in the common law, in criminal prosecutions after the closing of Evidence:

- (1) The prosecuting attorney shall open the closing arguments.
- (2) The accused or the attorney for the accused may reply.
- (3) The prosecuting attorney may reply in rebuttal.”

13. Common law provides that the party with the burden of proof is entitled to rebuttal argument.

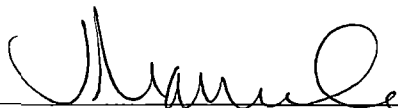
14. Pursuant to §775.027 Fla. Stat. the defendant has the burden of proof and therefore under common law is entitled to the final closing argument.

15. The defendant’s rights to a fair trial are protected by the due process clause guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution and Article 1 Section 9 of the Florida Constitution.

16. To the extent any Florida Statute or any Florida Rule of Criminal Procedure precludes the defendant from rebuttal argument or final close the defendant’s constitutional rights are violated.

WHEREFORE the Defendant moves this Honorable Court to enter its order to allow the defendant the opportunity to present final closing argument.

I do certify that a copy hereof has been furnished by email/physical delivery to the State Attorney, County Justice Center, Clearwater, Florida, on February 14, 2019.



JESSICA MANUELE, Attorney at Law
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