

**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY FLORIDA
CRIMINAL DIVISION**

STATE OF FLORIDA

V

**TOMASZ KOSOWSKI
PID: 312109281
CASE NUMBER: 23-02935-CF
DIVISION D**

**JOSEPH A. BULONE
CIRCUIT COURT JUDGE**

SEPTEMBER ³~~24~~, 2026

****JURY INSTRUCTIONS****

INTRODUCTION TO FINAL INSTRUCTIONS

**Members of the jury, I thank you for your attention during this trial.
Please pay attention to the instructions I am about to give you.**

STATEMENT OF CHARGE

Tomasz Kosowski, the defendant in this case, has been accused of the Murder in the First Degree.

INTRODUCTION TO HOMICIDE

Tomasz Kosowski is accused of one count of Murder in the First Degree.

First Degree Murder includes the lesser crimes of Second Degree Murder and Manslaughter, all of which are unlawful. However, a killing that was excusable homicide or that was committed by the justifiable use of deadly force is lawful.

If you find Steven Cozzi was killed by Tomasz Kosowski, you will then consider the circumstances surrounding the killing in deciding if the killing was First Degree Murder, or Second Degree Murder, or Manslaughter, or whether the killing was excusable homicide or resulted from the justifiable use of deadly force.

JUSTIFIABLE HOMICIDE

The use of deadly force to kill a human being is justifiable homicide, and therefore lawful, if necessarily done while resisting an attempt to murder or commit a felony upon the defendant, or to commit a felony in or upon any dwelling house in which the defendant was at the time of the killing. "Deadly force" means force likely to cause death or great bodily harm. "Great bodily harm" means harm that is more than slight, trivial, minor, or moderate.

EXCUSABLE HOMICIDE

The killing of a human being is excusable homicide, and therefore lawful, under any one of the following three circumstances:

- 1. When the killing is committed by accident and misfortune in doing any lawful act by lawful means with usual ordinary caution and without any unlawful intent, or**
- 2. When the killing occurs by accident and misfortune in the heat of passion, upon any sudden and sufficient provocation, or**
- 3. When the killing is committed by accident and misfortune resulting from a sudden combat, if a dangerous weapon is not used and the killing is not done in a cruel or unusual manner.**

A “dangerous weapon” is any object that will likely cause death or great bodily harm if used in the ordinary and usual manner contemplated by its design and construction.

An object not designed to inflict bodily harm may nonetheless be a “dangerous weapon” if it was used in a manner likely to cause death or great bodily harm.

MURDER IN THE FIRST DEGREE

To prove the crime of First Degree Premeditated Murder, the State must prove the following three elements beyond a reasonable doubt:

- 1. Steven Cozzi is dead.**
- 2. The death was caused by the criminal act of Tomasz Kosowski.**
- 3. There was a premeditated killing of Steven Cozzi.**

An “act” includes a series of related actions arising from and performed pursuant to a single design or purpose.

“Killing with premeditation” is killing after consciously deciding to do so. The decision must be present in the mind at the time of the killing. The law does not fix the exact period of time that must pass between the formation of the premeditated intent to kill and the killing. The period of time must be long enough to allow reflection by the defendant. The premeditated intent to kill must be formed before the killing.

The question of premeditation is a question of fact to be determined by you from the evidence. It will be sufficient proof of premeditation if the circumstances of the killing and the conduct of the accused convince you beyond a reasonable doubt of the existence of premeditation at the time of the killing.

WHEN THERE ARE LESSER INCLUDED CRIMES

In considering the evidence, you should consider the possibility that although the evidence may not convince you that the defendant committed the main crime of which he is accused, there may be evidence that he committed other acts that would constitute a lesser-included crime. Therefore, if you decide that the main accusation has not been proved beyond a reasonable doubt, you will next need to decide if the defendant is guilty of any lesser included crime.

The lesser crimes indicated in the definition of Murder in the First Degree are Murder in the Second Degree and Manslaughter.

MURDER IN THE SECOND DEGREE

To prove the crime of Second Degree Murder, the State must prove the following three elements beyond a reasonable doubt:

- 1. Steven Cozzi is dead.**
- 2. The death was caused by the act of Tomasz Kosowski.**
- 3. There was an unlawful killing of Steven Cozzi by an act imminently dangerous to another and demonstrating a depraved mind**

An “act” includes a series of related actions arising from and performed pursuant to a single design or purpose. An act is “imminently dangerous to another and demonstrating a depraved mind” if it is an act or series of acts that:

- 1. a person of ordinary judgment would know is reasonably certain to kill or do serious bodily injury to another,**
- and**
- 2. is done from ill will, hatred, spite, or an evil intent, and indicates an indifference to human life;**

[or

denotes a wicked and corrupt disregard of the lives and safety of others].

To convict of Second Degree Murder, it is not necessary for the State to prove the defendant had an intent to cause death.

MANSLAUGHTER

To prove the crime of Manslaughter, the State must prove the following two elements beyond a reasonable doubt:

- 1. Steven Cozzi is dead.**
- 2. a. Tomasz Kosowski intentionally committed an act or acts that caused the death of Steven Cozzi.**

OR

- b. The death of Steven Cozzi was caused by the culpable negligence of Tomasz Kosowski.**

Every person has a duty to act reasonably toward others. If there is a violation of that duty, without any conscious intention to harm, that violation is negligence. The defendant cannot be guilty of Manslaughter by committing a merely negligent act or if the killing was justifiable or excusable homicide, as I have previously instructed you.

To convict of Manslaughter, it is not necessary for the State to prove that the defendant had an intent to cause death, only an intent to commit an act that was not merely negligent, justified, or excusable, and which caused death.

I will now define “culpable negligence” for you. As I have said, every person has a duty to act reasonably toward others. If there is a violation of that duty, without any conscious intention to harm, that violation is negligence. But culpable negligence is more than a failure to use ordinary care toward others. For negligence to be culpable, it must be gross and flagrant. Culpable negligence is a course of conduct showing reckless disregard of human life or a grossly careless disregard for the safety and welfare of the public.

The negligent act or omission must have been committed with an utter disregard for the safety of another. Culpable negligence is consciously doing an act or following a course of conduct that the defendant knew or reasonably should have known was likely to cause death or great bodily injury.

PLEA OF NOT GUILTY; REASONABLE DOUBT; AND BURDEN OF PROOF

The defendant has entered a plea of not guilty. This means you must presume or believe the defendant is innocent. The presumption stays with the defendant as to each material allegation in the information through each stage of the trial unless it has been overcome by the evidence to the exclusion of and beyond a reasonable doubt.

To overcome the defendant's presumption of innocence, the State has the burden of proving the crime with which the defendant is charged was committed and the defendant is the person who committed the crime.

The defendant is not required to present evidence or prove anything.

Whenever the words "reasonable doubt" are used, you must consider the following:

Reasonable doubt is not proof beyond all doubt. A mere possible, speculative, imaginary, or forced doubt is not a reasonable doubt. Such a doubt is not a guess or mere conjecture.

Rather, it is a doubt based upon reasoning and common sense after careful and impartial consideration of all the evidence in the case.

A reasonable doubt as to the guilt of the defendant may arise from the evidence, conflict in the evidence, or the lack of evidence. If after a careful and impartial consideration of all the evidence, you have a reasonable doubt as to the guilt of the accused, it is your duty to find the defendant not guilty. On the other hand, if after a careful and impartial consideration of all the evidence, you are convinced beyond a reasonable doubt that the defendant is guilty, it is your duty to find the defendant guilty.

It is to the evidence introduced in this trial, and to it alone, that you are to look for that proof.

WEIGHING THE EVIDENCE

It is up to you to decide what evidence is reliable. You should use your common sense in deciding which is the best evidence and which evidence should not be relied upon in considering your verdict. You may find some of the evidence not reliable, or less reliable than other evidence.

You should consider how the witnesses acted, as well as what they said. Some things you should consider are:

- 1. Did the witness seem to have an opportunity to see and know the things about which the witness testified?**
- 2. Did the witness seem to have an accurate memory?**
- 3. Was the witness honest and straightforward in answering the attorneys' questions?**
- 4. Did the witness have some interest in how the case should be decided?**
- 5. Does the witness's testimony agree with the other testimony and other evidence in the case?**
- 6. Has the witness been offered or received any money, preferred treatment, or other benefit in order to get the witness to testify?**
- 7. Had any pressure or threat been used against the witness that affected the truth of the witness's testimony?**
- 8. Did the witness at some other time make a statement that is inconsistent with the testimony he or she gave in court?**
- 9. Has the witness been convicted of a [felony] [misdemeanor involving [dishonesty] [false statement]]?**
- 10. Does the witness have a general reputation for [dishonesty] [truthfulness]?**

Whether the State has met its burden of proof does not depend upon the number of witnesses it has called or upon the number of exhibits it has offered, but instead upon the nature and quality of the evidence presented.

The fact that a witness is employed in law enforcement does not mean that his or her testimony deserves more or less consideration than that of any other witness.

Expert witnesses are like other witnesses, with one exception—the law permits an expert witness to give his or her opinion. However, an expert’s opinion is reliable only when given on a subject about which you believe him or her to be an expert. Like other witnesses, you may believe or disbelieve all or any part of an expert’s testimony.

It is entirely proper for a lawyer to talk to a witness about what testimony the witness would give if called to the courtroom. The witness should not be discredited by talking to a lawyer about his or her testimony.

You may rely upon your own conclusion about the credibility of any witness. A juror may believe or disbelieve all or any part of the evidence or the testimony of any witness.

DEFENDANT NOT TESTIFYING

The constitution requires the State to prove its accusations against the defendant. It is not necessary for the defendant to disprove anything. Nor is the defendant required to prove his innocence. It is up to the State to prove the defendant's guilt by evidence.

The defendant exercised a fundamental right by choosing not to be a witness in this case. You must not view this as an admission of guilt or be influenced in any way by his decision. No juror should ever be concerned that the defendant did or did not take the witness stand to give testimony in the case.

RULES FOR DELIBERATION

These are some general rules that apply to your discussion. You must follow these rules in order to return a lawful verdict:

- 1. You must follow the law as it is set out in these instructions. If you fail to follow the law, your verdict will be a miscarriage of justice. There is no reason for failing to follow the law in this case. All of us are depending upon you to make a wise and legal decision in this matter.**
- 2. This case must be decided only upon the evidence that you have heard from the testimony of the witnesses and have seen in the form of the exhibits in evidence and these instructions.**
- 3. This case must not be decided for or against anyone because you feel sorry for anyone, or are angry at anyone.**
- 4. Remember, the lawyers are not on trial. Your feelings about them should not influence your decision in this case.**
- 5. Your duty is to determine if the defendant has been proven guilty or not, in accord with the law. It is the judge's job to determine a proper sentence if the defendant is found guilty.**
- 6. Whatever verdict you render must be unanimous, that is, each juror must agree to the same verdict.**
- 7. Your verdict should not be influenced by feelings of prejudice, bias, or sympathy. Your verdict must be based on the evidence, and on the law contained in these instructions.**

VERDICT

You may find the defendant guilty as charged in the indictment or guilty of such lesser included crime as the evidence may justify or not guilty.

If you return a verdict of guilty, it should be for the highest offense which has been proven beyond a reasonable doubt. If you find that no offense has been proven beyond a reasonable doubt, then, of course, your verdict must be not guilty.

Your verdict must be unanimous, that is, all of you must agree to the same verdict. The verdict must be in writing and for your convenience the necessary forms of verdict have been prepared for you. It is as follows:

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STATE OF FLORIDA,

CASE NO: 23-02935-CF

vs.

TOMASZ KOSOWSKI

_____/

VERDICT

We, the jury, find as follows: (check only one as to this count)

- ☐ **a. The defendant is guilty of Murder in the First Degree, as charged.**
- ☐ **b. The defendant is guilty of Murder in the Second Degree, a lesser-included offense.**
- ☐ **c. The defendant is guilty of Manslaughter, a lesser-included offense.**
- ☐ **d. The defendant is not guilty.**

SO SAY WE ALL.

Foreperson of the Jury (signature)

Foreperson of the Jury (print name)

Date