

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff.

vs.

PAT GREEN, Defendant.

TYPE OF CASE

Criminal prosecution for assault with intent to injure
Defense of Self-defense
Jury trial
Circuit Court (State)

NATURE OF THE LEGAL CLAIMS

The prosecution claims that defendant, using a gun, committed assault with intent to murder, or one of several lesser assaults. Defendant claims he was acting in lawful self-defense.

SUMMARY OF FACTS

Defendant a high school student, found a pistol and was sitting on his front porch holding it, when the victim and another person approached. The victim carried a baseball bat. There is a dispute as to what happened next.

Stover and Moffit say that they did not threaten defendant. Defendant says Stover was about to strike him with the bat. Defendant fired the gun, hitting Stover in the thigh.

LIST OF MATERIALS

Pretrial Order, pp. 1-2
Jury Instructions, pp. 3-4
Exhibit 1 - Diagram, p. 5
Statement of Chris Stover [Prosecution Witness], p. 6
Statement of Jerri Moffat [Prosecution Witness], p. 7
Statement of Pat Green [Defendant], p. 8
Statement of Ramsey Conn [Defense Witness], p. 9

COMMENTS AND SUGGESTIONS

Note, that the burden of proof on self-defense is on the prosecution. The People must disprove defendant's claim that he reasonably believed his action was necessary to defend against the bat.

For the prosecutor, there is some strategy involved in choosing which of the charges to emphasize.

One additional witness could be a doctor who examined Chris Stover. Use the facts in the stipulation.

Another person near the scene and Skeeter [See statements of Moffit and Green] could be others. Keep in mind, you do not want to give either side a big edge.

**STATE OF MICHIGAN
IN THE FIFTY SEVENTH CIRCUIT COURT**

**PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff.**

NO. 1992-429

vs.

**PAT GREEN,
Defendant.**

PRETRIAL ORDER

1. Defendant is charged, in the alternative, with the following offenses:
Penal Code 83, Assault with intent to murder; punishable by life imprisonment. Penal Code 84, Assault with intent to do serious bodily harm less than murder; punishable by imprisonment of up to 10 years. Penal Code 82, Assault with a gun or other dangerous weapon; punishable by imprisonment of up to 4 years.
2. The Presiding Judge will conduct the trial according to the Rules for the 1992 Michigan High School Mock Trial Tournament. Trial will be by Jury. Two Tournament Judges will sit in the jury box and it will be assumed that they represent a 12 person jury. After the case is called and the attorneys state their appearances, it will be assumed that the jury has been sworn and is present. Therefore, the trial will then begin with the prosecution's opening statement. The attorneys are encouraged to call the court's attention to parts of the Rules or this Order to support an attorney's argument on any point.
3. The Presiding Judge will entertain no motions other than for an order sequestering the witnesses. Such a motion should be made after the introduction of counsel and before the prosecution's opening statement.
4. The Prosecution witnesses will be Chris Stover and Jerri Moffat. The Defense witnesses will be Pat Green and Ramsey Conn. Each side may call its witnesses in either order.
5. The jury will be instructed on the elements of the offenses and on self-defense according to the attached jury instructions.
6. Pursuant to stipulation of the Parties:
 - (a) The jury will be instructed that they should take as true that, on the date in question, Chris Stover suffered a gunshot wound in the right thigh, from a small caliber bullet. The entry would be on the middle one third of the anterior aspect of the thigh, with an exit wound on the lower one third of the posterior aspect of the thigh. There was no vascular or nerve injury and the femur was uninjured. Defendant suffered no permanent injury, experienced some pain for two months and limped slightly for one month. Counsel may refer to those matters as proven facts, in their opening

statements and in closing arguments.

(b) Exhibit A is an accurate diagram showing the porch and sidewalk of 626 Littlefield, Mill Valley, Michigan, Pat Green's house.

7. The jury will also be instructed that if the defendant is convicted, the Court will determine defendant's sentence and that they need not concern themselves with the question of sentence.

8. There shall be no other exhibits. No enlargements of any kind should be used during the trial. A chalkboard and chalk will be available in the courtroom for use as a visual aid during opening statements and closing arguments.

SO ORDERED,

IRINA BARANOVSKIA, Circuit Judge
February 22, 1992