

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

Court File No.: 62-CR-21-6868

State of Minnesota,

Plaintiff,

vs.

**MOTION FOR JUDGMENT OF
ACQUITTAL**

Brian Harry Kjellberg,

Defendant .

Pursuant to Minn. R. Crim. P. 26.03, Subd 18 (3), Brian Kjellberg, through his lawyers, moves the Court for a judgment of acquittal. The Court must order the entry of judgment of acquittal if the evidence is insufficient to sustain a conviction. Minn. R. Crim. P. 26.03, subd. 18(1).

The State's case was based largely, or entirely, on circumstantial evidence. In cases based entirely on circumstantial evidence, the motion for judgment of acquittal will only be denied if the "circumstances proved" are consistent with the hypothesis that the defendant is guilty and inconsistent with any rational hypothesis except that of guilt. *State v. Jones*, 516 N.W.2d 545, 549 (Minn. 1994). Stated another way, "when reasonable or rational inferences exist which are inconsistent with guilt, the State has not presented sufficient evidence as a matter of law" and judgment of acquittal is proper. *State v. Sam*, 859 N.W.2d 825, 831 (Minn. App. 2015).

Here the state failed to prove beyond a reasonable doubt that Mr. Kjellberg's defense of himself was unreasonable. The circumstances of his physical disability, the traumatic brain

injury, being punched four times in the face while backing up on his own property, his only defense at that moment was to thrust the tool at Mr. Stewart. As he said in his lengthy statement he did not want to die. None of the evidence was contested by the State. The circumstances outlined were all proved at the trial: disability, traumatic brain injury, being punched four times while backing up, this incident happening in just a couple of seconds. The fact that the police had been called approximately 20 minutes prior, and again called during the verbal interaction (prior to the assault), are further circumstances to prove the reasonableness of Mr. Kjellberg's actions *in those exact circumstances*. In addition, Mr. Kjellberg's demeanor and reaction to the news that Mr. Stewart had passed, make it clear that his only purpose was to protect his life, never to end another person's.

Date: April 12, 2023

s/ Earl P. Gray

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