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**PRESS RELEASE**

**NO CRIMINAL CHARGES IN CLUB ICE DEATH**

**The Facts**

On April 25, 2009 at approximately 1:14 a.m., the Redding Police Department responded to Club Ice in the City of Redding because of an assault that had taken place. When they arrived with medical assistance, Adam Martinez, age 31, was lying unconscious on the dance floor of this night club. Martinez was transported to the hospital. He eventually succumbed to his wounds and died on 5/14/2009.

Through their investigation that night, officers learned that Lennart Schauman, age 30, punched Martinez, causing him to fall and strike his head on the concrete floor. According to Schauman, he was at the nightclub with his girlfriend, Kathy Willoughby. He says he observed Martinez contact Willoughby and would not leave her alone. He says he punched Martinez because he was harassing his girlfriend and would not leave her alone. Willoughby claims that Martinez was in her space and trying to kiss her although she claimed that he did not touch her. The entire incident was captured on video by the nightclub surveillance camera.

The video shows Schauman dancing with Willoughby on the dance floor. Eventually, he moves to a side bar area with his drink and watches Willoughby dance with other females. The video shows Martinez entering the dance floor area and encountering Willoughby briefly. She appears to turn and walk away from Martinez. Martinez then re-approaches Willoughby on the dance floor and backs her up several feet up against a stage area. Willoughby is then against the stage with her back to the stage and Martinez in front of her. Schauman is observing this behavior. While against the stage, the video appears to show Martinez leaning closer to Willoughby while taking her arms and raising them over their heads. Schauman has approached the two by this time, leaving his drink behind. There is a brief pause by Schauman. Martinez takes his hands down and puts them on his hip or in his pockets. Immediately afterward, Schauman grabs Martinez by the shoulder and turns Martinez toward Schauman while Schauman throws a punch striking Martinez in the mouth. Martinez falls directly backward without an effort to break his fall. His head strikes the concrete and he does not move. Schauman takes Willoughby by the hand and they attempt to leave the nightclub. Security later stopped the two and waited for police to arrive.

According to police, Willoughby was highly intoxicated and recalls little from the night. No blood alcohol test was taken. Schauman's blood alcohol level was .11, over the legal driving limit of .08. Martinez had a blood alcohol level of .18 - more than twice the legal driving limit.

Some patrons of the bar said that Martinez was desperately trying to "pick up" a girl to take home that

night and that through body language, they could see that Willoughby was not interested. Schauman claims he told Martinez to leave Willoughby alone, but Martinez ignored him. It should be noted that the incident occurred in a very loud area of the club. It is uncertain whether Martinez could have heard such warnings.

Neither Schauman nor Martinez have a history of violence.

### **The Delay**

Immediately, it became apparent that the video was critical. The original video showed the critical parts of the assault, but not clearly. Although it appeared that Martinez raised his arms, it was unclear. The original video is of poor quality. The video is black and white and shows a dance floor in the dark with lights flashing and rotating for affect. Investigators from RPD and the District Attorney's Office spent hours trying to enhance, clarify and adjust the speed of the video to observe all that happened that evening. This was the primary reason for the delay in making a decision in the case. The video has been slowed to 30 frames a second at the critical times.

Additional witnesses were also sought to help us decipher what we could see on the video.

Finally, given the difficult nature of the decision to be made, many groups were consulted to obtain their thoughts and opinions. These groups included law enforcement personnel, deputy district attorneys within my office and the outgoing grand jury of 2008-2009. The case was continually worked on throughout the last several months.

### **The Law**

It is apparent that Schauman did not intend to kill Martinez, but simply to punch him. However, under the law, when someone commits a battery, such as a punch, on another and the victim dies as a result of the punch, the crime is an involuntary manslaughter. That offense is a felony that carries up to 4 years in prison. In the present case, it is clear that the punch by Schauman clearly led to the death of Martinez and is an involuntary manslaughter unless Schauman has a legal defense to the battery. The only defense applicable would be that he acted in defense of another, that being Willoughby. The defense is based upon his reasonable fear that Willoughby was about to be touched unlawfully - meaning without her consent. The jury instruction that applies is attached. For the defense to apply, Schauman must have:

- 1) Reasonably believed that Willoughby was in imminent danger of being touched unlawfully;
- 2) Reasonably believed that the immediate use of force was necessary to prevent that unlawful touching to occur, and
- 3) No more force was used than necessary to defend against the unlawful touching.

The most important part is that the prosecution has the burden of proving beyond a reasonable doubt that the defendant DID NOT act in defense of another. In other words, the burden is not on the defendant to prove he struck Martinez in defense of another, it is for the prosecution to prove beyond a reasonable doubt that the punch was thrown for some other reason. In this case, the only other logical reason for punching Martinez would be jealousy.

## Analysis

Clearly, without the defense of another claim, Schauman would be charged with involuntary manslaughter. There is no doubt that he is responsible for the death of Adam Martinez. The question is whether we can prove that his punch was not lawful defense of another beyond a reasonable doubt. The enhanced video is critical in answering this question in light of the 3 elements listed above. First, it is reasonable for Schauman to believe that Willoughby was in imminent danger of being touched unlawfully. The video shows that Martinez did unlawfully (without permission) touch Willoughby. His advances toward her initially and then by backing her up to the stage clearly show his intention to be close to her. Then, his actions of taking her arms and pulling them up while leaning into her as she is trapped against the stage clearly show an advance on her. Although Martinez put his arms down prior to being hit, he still has Willoughby trapped against the stage. It was reasonable for Schauman to believe that Willoughby was in imminent danger of being touched again in a way that she found offensive. Although Willoughby that night says Martinez did not touch her, the video clearly shows differently. In addition, that night Willoughby states that Martinez was in her space and tried to kiss her. This is consistent with other witness statements that Martinez was desperate to find a woman to take home that night. We cannot prove beyond a reasonable doubt that Schauman's belief was unreasonable.

The second element requires that Schauman reasonably believe that the immediate use of force was necessary to prevent the touching. He had just witnessed a couple of attempts by Martinez to engage Willoughby before Martinez touched Willoughby while trapped against the stage. According to Schauman, he told Martinez to leave Willoughby alone, but Martinez ignored him. We cannot disprove that statement and given the location of the incident in a loud area of the club, it is questionable that Martinez could have heard any warnings. Again, based on what had transpired in his presence, we cannot prove beyond a reasonable doubt that his belief that force was necessary to stop another touching from occurring was unreasonable beyond a reasonable doubt.

The third element is the key and most controversial element. Was the force used - a single punch to the mouth - excessive beyond a reasonable doubt given the circumstances? To determine the reasonableness of force used, we have to consider the range of force that could have been used. No deadly weapon such as a knife or gun was used. In fact, Schauman leaves his drink at the bar rather than use it as a weapon. On the other end of the spectrum, Schauman could have simply pushed Martinez or placed his body between the two. I considered the fact that only one punch was thrown to the mouth. He did not pursue Martinez after the single punch or attempt to strike him again.

In consulting with law enforcement personnel and members of my office, each group was almost evenly split on the issue of whether the force used was excessive, but nearly unanimous in their opinion that we would never get 12 jurors to agree that the punch was excessive beyond a reasonable doubt. Because this decision really relies upon the sensibilities of a particular community, I consulted with the grand jury in their advisory role and as a fair cross-section of the community. After hearing and viewing all the evidence and a good discussion of the law and facts, the jurors were evenly split on the issue of excessive force- just like the other groups consulted. And all agreed that we would not be successful in getting 12 trial jurors to vote for guilt. Given that fact and the consistent opinions received which were consistent with my personal evaluation of the case, I do not believe that we could ever succeed in overcoming the "defense of another" claim. At best, we might succeed in obtaining a hung jury. This is why no charges will be filed against Schauman.

Some may ask why not just try and see what a jury will do. First, what we are observing is the best our

case will be. Our presentation includes our strongest case without any defense evidence. Certainly, with a defense attorney presenting evidence, the case would become less compelling for us.

Second, as the District Attorney, I have the ethical obligation not to bring the power of the State to bear on a person unless I believe that I can prove a case beyond a reasonable doubt and obtain a conviction. In that way, I have as much an obligation to not drag a person through the court system if I have a doubt as to their guilt as I do to prosecute those who I believe are guilty. This is a very difficult case and I do not like the outcome, but am compelled to decide this way in light of the evidence and the law. Californians, as do I, highly value the right of citizens to defend themselves, others, and their property. This is why the burden is so high and why that burden is on the prosecution. The law of defense of others takes into account normal human emotions, frailties and reactions.

To quell speculation, let me state that this decision is not in anyway a result of fewer resources. Both the Redding Police Department and my office utilized every resource we could. Cases involving the death of a human being will always be given the highest priority regardless of budget problems.

My sympathies go out to the family and friends of Adam Martinez. This decision does not prevent the family from pursuing a civil lawsuit against Schauman if they choose.

CalCrim Instruction 3470

## **RIGHT TO DEFENSE OF ANOTHER**

Self-defense is a defense to battery. The defendant is not guilty of that crime if he used force against the other person in lawful defense of another. The defendant acted in lawful defense of another if:

1. The defendant reasonably believed that Willoughby was in imminent danger of suffering bodily injury or was in imminent danger of being touched unlawfully;
2. The defendant reasonably believed that the immediate use of force was necessary to defend against that danger; AND
3. The defendant used no more force than was reasonably necessary to defend against that danger.

Belief in future harm is not sufficient, no matter how great or how likely the harm is believed to be. The defendant must have believed there was imminent danger of violence to someone else. Defendant's belief must have been reasonable and he must have acted because of that belief. The defendant is only entitled to use that amount of force that a reasonable person would believe is necessary in the same situation. If the defendant used more force than was reasonable, the defendant did not act in lawful defense of another.

When deciding whether the defendant's beliefs were reasonable, consider all the circumstances as they were known to and appeared to the defendant and consider what a reasonable person in a similar situation with similar knowledge would have believed. If the defendant's beliefs were reasonable, the danger does not need to have actually existed.

The defendant's belief that someone else was threatened may be reasonable even if he relied on information that was not true. However, the defendant must actually and reasonably have believed that the information was true.

A defendant is not required to retreat. He or she is entitled to stand his or her ground and defend himself or herself and, if reasonably necessary, to pursue an assailant until the danger of battery has passed. This is so even if safety could have been achieved by retreating.

The People have the burden of proving beyond a reasonable doubt that the defendant did not act in lawful defense of another. If the People have not met this burden, you must find the defendant not guilty of battery.

To see the captured photograph frame from the Club Ice video which depicts Martinez holding Willoughby's arms with Schauman standing nearby click this link: [Frame 78](#).