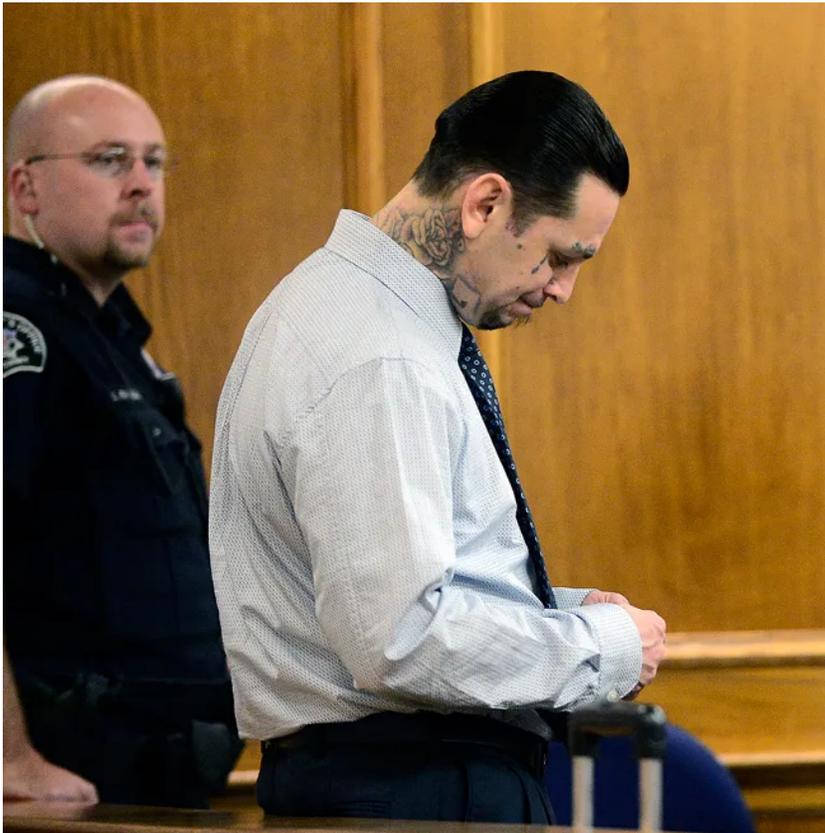


LOCAL NEWS

'UNTRUE': Defense attacks credibility of key witness in Nathaniel Tallman trial



Cliff Grassmick

Daniel Ortiz waits for the trial to begin in the trial for the murder of Nathaniel Tallman on Friday. Daniel Ortiz, 38, and Moises Mendez, 26, are both set for a joint three-week trial on charges of first-degree felony murder, robbery and aggravated motor-vehicle theft. For more photos, go to www.dailycamera.com. Cliff Grassmick Staff Photographer September 18, 2015



By **MITCHELL BYARS** | byarsm@dailycamera.com |

Boulder Daily Camera

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Editor's note: A Boulder County jury later [acquitted](#) Moises Mendez of these charges.

On Thursday, Russell “Rusty” Britton testified to watching Nathaniel Tallman be shot and killed during a robbery. But on Friday, next to a giant poster board with the word “UNTRUE” written on it, the defense attorney for a suspect in Tallman’s ongoing murder case went through all the other stories Britton has told in the past.

“As the evidence started to amass against you, you ultimately changed your story to what you testified to (Thursday), correct?” attorney Matt Connell said.

The defense for the two men now being tried for the murder of Tallman, 25, of Lafayette, continued Friday to attack the credibility of Britton, the prosecution’s witness. Britton also was charged with murder but took a plea deal for lesser charges and was sentenced to 15 years in prison.

Daniel Ortiz, 38, and Moises Mendez, 26, are both standing trial on charges of first-degree felony murder, robbery and aggravated motor-vehicle theft.

During Thursday's testimony, Britton said Tallman arrived at his Berthoud property Jan. 21, 2014, for a drug deal, where he was shot. He said Ortiz and a man he then only knew as Ortiz's brother-in-law — who prosecutors claim was Mendez — appeared, holding guns.

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Britton said he then disposed of Tallman's body in Wyoming.

During cross-examination Friday, Connell — an attorney for Ortiz — made a tally mark on his "UNTRUE" poster board every time Britton admitted on the stand he had been dishonest with law enforcement or Tallman's friends or family in the days after he went missing.

By the end of the day Friday, Connell had more than 80 tally marks and had to start a second page he titled, "UNTRUE page 2."

Connell pointed out that Britton's original story was that he had never met Tallman.

"Unlike a witness, the physical evidence doesn't say things that are false, right, Mr. Britton?" Connell said.

In an interview with Lafayette police Jan. 27, 2014, Connell said, the detective tried to ask Britton if he had been mixed up in something while dealing drugs, and asked if he was afraid to talk to police because of those people. Connell said that's when Britton suddenly told police he had "theories" and "gut feelings" about the involvement of the two defendants.

"Essentially, you have adopted the suggestive statements made by Detective (Scott) Robinson on Jan. 27 and made that into your story?" Connell asked.

Connell said it appeared Britton would tell a story until he was confronted by evidence, then would change the story.

"You can insert people into your imaginary stories to get them in trouble, correct?" the attorney said. "If you are making up the stories, you can put whoever you want into them, right?"

Even on the day he was arrested — March 14, 2014 — Britton told a different story than the one on the stand Thursday. When he was arrested, Britton claimed Ortiz and Mendez suddenly showed up on his property with Tallman's body.

"Why did you make up this story?" Connell asked, to which Britton replied, "I knew it was coming to a head. I was scared."

But Britton also acknowledged that story was not true.

"It was all fake; it was all a lie," he said.

Connell was not done yet with cross-examining Britton when court had to end early due to a judges conference. The trial will resume Tuesday morning.

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