

LOCAL NEWS

Defense blames third man as Nathaniel Tallman murder trial opens



Mark Leffingwell

Moises Mendez talks with lawyers prior to opening arguments in his and Daniel Ortiz's trial for the murder of Nate Tallman at the Boulder Country Justice Center in Boulder, Colorado. Photo by Mark Leffingwell Staff Photographer September 15, 2015



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

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

Attorneys made their opening arguments Tuesday in the trial for [two men accused of murder](#) in the 2014 death of Nathaniel Tallman, 25, of Lafayette.

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.

Live coverage

For live coverage of the proceedings, follow reporter Mitchell Byars on Twitter at [@mitchellbyars](#).

The first-degree felony murder charge carries a mandatory sentence of life in prison without the possibility of parole if the two men are convicted.

Prosecutors said in their opening statements that Ortiz, Mendez and a third man, Russell “Rusty” Britton, conspired to rob Tallman, while defense attorneys for Mendez and Ortiz said Britton — a witness for the prosecution — is really the man responsible for Tallman’s death.

Assistant District Attorney Ryan Brackley put up photos of Ortiz, Mendez and Britton, as well as Tallman, as he outlined the plan to rob and kill Tallman, Britton's marijuana dealer.

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"This case is about four men," Brackley said, pointing at the photos. "These three men lured Nate Tallman to a barn in Berthoud, Colorado. These three men are ultimately responsible for the fact that Nate Tallman is dead."

Brackley said Ortiz was desperate for money in January when he found out his friend Britton was meeting with Tallman to buy marijuana from him to later resell in North Dakota, and that he planned to rob him.

"This is where the countdown to the end of Nate Tallman's life began," Brackley said.

Britton said when Tallman arrived at his property on the night of Jan. 21, 2014, Tallman took a bag of pot into a barn, according to prosecutors.

"Nate Tallman's last words were, 'I've got good news and I've got bad news,' at which time a shot rang out and Nate Tallman was dead," Brackley said.

Brackley said Britton would tell the jury how he then saw Mendez, gun in hand, rushing toward him when Ortiz stepped in and said, "What did you do? What did you do?"

Both Ortiz and Mendez are charged with first-degree murder under the felony murder rule, which allows prosecutors to charge a suspect with first-degree murder when a person is killed during the commission of another felony, even if that suspect didn't commit the murder.

But defense attorneys for Mendez and Ortiz told jurors that the story was just the latest given by Britton to deflect blame away from himself.

"There is not enough proof because the evidence relies on Rusty Britton," said Mendez's attorney Zak Malkinson.

Ortiz's attorney Elizabeth Connell said blood was found in Britton's van and on his gloves, and that he killed Tallman so he wouldn't have to split the profits of their pot deal.

"All the physical evidence leads to Rusty Britton," Connell said. "He had the motive, the opportunity, the means to rob Nate Tallman and to kill Nate Tallman."

She said Britton, through the course of the case, changed his story repeatedly, from claiming he never met Tallman to later saying after Tallman's body was found by the side of the road in Wyoming that Ortiz and Mendez drove up to his property with Tallman's body and told him to dispose of it.

"(Prosecutors) want you to believe (Britton) at this trial, but Rusty Britton and only Rusty Britton killed Nate Tallman," Connell said. "Rusty Britton and only Rusty Britton robbed Nate Tallman, and Rusty Britton and only Rusty Britton should pay for this crime."

Britton has taken a plea deal for being an accessory to murder and robbery and was sentenced to 15 years in prison in exchange for his testimony, defense attorneys said.

But Brackley said the evidence would back up what Britton said.

“You may not like it,” he said. “But this case is not about (Britton); it’s about what these men did and about the evidence.”

Among the people to take the stand Tuesday was Tallman’s father, Kevin Tallman, who said that when his son did not contact him at all Jan. 21, he began to worry and pulled phone records and found out that Britton was the last person to contact his son.

He said Britton claimed Nathaniel Tallman never made it to the meeting, but that he appeared to be “sidestepping” the subject of where his son was.

Court was adjourned for the day, and the trial will resume Wednesday morning.

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