

Madalia Maaliki:

So in this case, the alleged victim was upset that our client had parked in the driveway or something that was his spot. He comes into the house, angry, pounding on the door. Our client opens the door, which he always keeps locked and this person stepped into the threshold of his room. Which caused our client to be concerned for his safety because he doesn't know this man very well. He was gesturing as if he was going to assault him. So he drew his firearm. As soon as the individual left his room, he then put that firearm away. As a result of that interaction, he was charged with a felony. Any plea impacted our client's life, such that he would lose his entire military career and so we really had to dive deep and say what kind of a resolution can we get?

Madalia Maaliki:

So this case was a felony menacing case where our client was inside of his bedroom, but this bedroom was a part of a larger house where individuals rented out the rooms on Craigslist. So the rooms theoretically were treated as individual dwellings or homes and that was really the legal issue that came to light throughout the course of the litigation. This seems like an issue that needs to be addressed that Colorado law hasn't really fully addressed yet. That's whether or not a bedroom that's treated like a dwelling is a dwelling under the law. So that's what Drew and I explored ultimately in asking for a hearing to litigate that issue.

Madalia Maaliki:

We prepared by having our investigator interview other roommates that were present during the time to get their insight, what they saw, whether or not that person actually stepped over the line into the bedroom. We also did detailed interviews with our own client to say how did you treat this place like your room? Did you have a fridge in there? Were payments separate for rent? Did you keep your door locked? Did anybody have access? So answering those questions are the things we knew we had to address for the different elements that we would have to prove at the hearing. In preparation for the hearing, Drew also put together a PowerPoint that addressed those different conditions that had to be met and also how the prosecution would fail to rebut that in any way.

Madalia Maaliki:

It was set for a trial, but did not have to proceed to trial. The reason that was is we filed this motion, noting that this was a Make My Day issue, which gives somebody immunity under the law, meaning that they could not be prosecuted if it was proven to a court. So we filed that motion. Drew and I prepared. We also called in a retired judge to hear our case and give his opinion about what he thought in preparation. We got to the hearing and were met with apprehension, kind of being shut down by the judge who sees so many motion hearings that are frivolous or really have no basis, and this was one that was legitimate. So we were able to see her tone shift as we started to present the evidence that we did have knowing that the prosecutor had no answer to it. So she took it under advisement and issued a ruling a couple weeks later saying that she agreed with us and that by the law he was immune from prosecution, meaning the case had to be dismissed.

Madalia Maaliki:

This was a great example of doing that diligent work upfront, knowing what the case is, knowing it inside and out what each witness is going to say, and that this met what the elements of Colorado's law to establish this immunity. We were fortunate that this did not have to go to a trial and I think our client

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was grateful as well that he didn't have to roll the dice at a trial because the outcome was determined by the work that we put in.