



## A Quick Guide to the Burden of Proof, Lesser Included Offenses, and Defenses

The prosecution will introduce evidence to prove beyond a reasonable doubt that Hayes committed a deliberate assault on Valdez which resulted in his death. Based on this, the prosecution seeks a conviction of murder. (See CALCRIM 500 and CALCRIM 520) (In proving the murder charge, the prosecution simultaneously would be proving the elements of voluntary manslaughter as a lesser included offense. Should the judge in this case decide that Hayes's defense of another was imperfect, Barnes

suffering great bodily injury or death, and it would allow Hayes another as a completed defense.

In its closing argument, the prosecution will argue that Hayes committed a complete or imperfect defense of another. (See CALCRIM 571) the murder of Valdez by striking Valdez with the bat and causing his death. Furthermore, witnesses' testimony and the exhibits are evidence of a premeditated and aforethought and his unreasonable belief in any danger of great bodily injury or death posed to Barnes. The prosecution may choose however, to argue that Hayes is at least guilty of the lesser included offense of voluntary manslaughter.

In its closing argument, the defense will argue that, Hayes acted in self-defense of another and is not guilty of any crime. If, however, the judge finds that the testimony and the exhibits are evidence that Hayes's belief that the great bodily injury or death was honest but unreasonable, the judge may find Hayes guilty of the lesser included offense of voluntary manslaughter. (See CALCRIM 571 for the elements of imperfect defense of another.)

Although characterized as a defense, the burden of proof never shifts to the prosecution. The prosecution must prove beyond a reasonable doubt that Hayes committed murder and also that Hayes was not acting in either self-defense or defense of another.