

Higher court weighs self-defense argument in Wayne Mills killing



Natalie Neysa Alund, nalund@tennessean.com 3:42 p.m. CDT July 19, 2016



(Photo: Larry McCormack / File / The Tennessean)

Attorneys for the man convicted of killing country musician Wayne Mills appealed their case to the Court of Criminal Appeals Tuesday arguing their client deserves a new trial for reasons including erroneous jury instructions and a botched police investigation.

During a nearly 40-minute hearing, David Raybin of Raybin & Weissman law firm argued before the higher court on behalf of inmate Christopher M. Ferrell.

"This is not second-degree murder, it is manslaughter," Raybin told the three judges. "My client was threatened several times."

Ferrell, 47, was found guilty of second-degree murder in March 2015 and sentenced to 20 years in prison for fatally shooting Mills Nov. 23, 2013 after a tribute concert to music legend George Jones. The two friends had been drinking with others at Ferrell's now-defunct Second Avenue bar downtown, the Pit and Barrel.

Court testimony showed that they began fighting about Mills smoking inside the bar and Mills threatened to kill Ferrell. Ferrell grabbed a gun from the bar and fired three shots. One round hit Mills in the back of the head. Ferrell then staged a scene.

Nashville Criminal Court Judge Steve Dozier found based on trial evidence he did not think Ferrell was strongly provoked before the shooting. He cited testimony that Ferrell was 15 to 20 feet away from Mills, who was leaving, and there was a bar in between the two men.

Raybin, who filed a motion for a new trial in March, argued Tuesday that Ferrell did not murder Mills but that he acted out of fear and shot him in self-defense.

He asked the judges to consider whether the evidence was sufficient to support a verdict of second-degree murder, rather than voluntary manslaughter or self-defense; whether the trial court failed to properly charge the jury on self-defense and whether the court erred in failing to give an instruction regarding the state's failure to preserve evidence.

Raybin cited a "botched" police investigation because he said police lost and destroyed the contents of Mill's cellphone. He said when police confiscated the phone they dusted it with fingerprint powder, erasing all data from it.



"To this day we don't know what was on that phone," Raybin told the judges. "Phone records are important in the case and we would have like to have had that."

Assistant Attorney General M. Todd Ridley asked the court to affirm the jury's second-degree murder decision.

"It was a drunken argument in a bar over a cigarette," Ridley said. "At the time he was shot he was near the door and shot in the back of the head. The defendant then dragged (the victim's body) back inside and stage a scene. There is no dispute the victim was unarmed."

Ridley also argued jurors were adequately instructed before they weighed the case and that the jury heard from the defendant at trial and found his story was not credible.

Until the judges on the court rule, Ferrell, 47, remains an inmate at Northeast Correctional Complex in Mountain City, Tenn.

Reach Natalie Neysa Alund at 615-259-8072. Follow her on Twitter @nataliealund.