

THURSDAY, APRIL 24, 2008
11:00 A.M.

NO. 3

#24411

STATE OF SOUTH DAKOTA,
Plaintiff and Appellee,

vs.

JAMES ALBERT COTTIER,
Defendant and Appellant.

Mr. Matthew L. Olson
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(FOR APPELLANT)

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(FOR APPELLEE)

The Honorable Joseph Neiles
Second Judicial Circuit
Minnehaha County

(CR 05-3714)

STATEMENT OF ISSUES AND AUTHORITIES

I. DID THE TRIAL COURT ABUSE ITS DISCRETION IN INSTRUCTING THE JURY ON SELF-DEFENSE?

The trial court instructed the jury on justifiable homicide as well as self-defense regarding simple assault.

Most Relevant Cases:

State v. Packed, 2007 SD 75; 736 N.W.2d 851
State v. Bennett, 326 N.W.2d 720 (SD 1982)
State v. Mattson, 2005 SD 71; 698 N.W.2d 538

II. DID THE TRIAL COURT ERR IN DENYING MR. COTTIER THE OPPORTUNITY TO PRESENT THE VIDEO OF AN UNAVAILABLE DEFENSE WITNESS?

The trial court held the entire video-taped interview of Running was inadmissible hearsay. It only allowed a small portion regarding Running's physical condition to be presented to the jury.

Most Relevant Cases:

State v. Davi, 504 N.W.2d 844 (1993)
State v. Swallow, 405 N.W.2d 29 (SD 1987)
State v. Engesser, 2003 SD 47; 661 N.W.2d 739

III. DID THE TRIAL COURT ABUSE ITS DISCRETION IN DENYING MR. COTTIER'S MOTION TO SUPPRESS STATEMENTS MADE TO DETECTIVE SCHAEFER?

The trial court denied the motion to suppress based upon its finding the statements were voluntarily made.

Most Relevant Cases:

State v. Morato, 2000 SD 149; 619 N.W.2d 655
State v. Tuttle, 2002 SD 94; 650 N.W.2d 20
State v. Dickey, 459 N.W.2d 445 (SD 1990)

IV. DID THE TRIAL COURT ERR IN DENYING MR. COTTIER HIS DUE PROCESS RIGHT TO PRESENT A COMPLETE DEFENSE?

The trial court did not allow Mr. Cottier the opportunity to present evidence supporting his reasonable apprehension of imminent great personal injury.

Most Relevant Cases:

State v. Packed, 2007 SD 75; 736 N.W.2d 851