

Prosecutor challenges self-defense in shooting

Murder

By MAY WONG

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SANTA CRUZ — The prosecution in David Turturici's murder trial attempted Wednesday to chip away at the defense's claim of self-defense.

No blood or skin tissue belonging to Turturici was found under the fingernails of the slain victim Rick Foster, Nicola Duda, a DNA expert with the state Department of Justice, testified on the third day of Turturici's trial.

The results seem to refute the defense's claim that Turturici shot Foster after a brief struggle that left scratches on Turturici's forearm.

But under cross examination, Duda admitted the DNA tests were limited to samples only from a few of Foster's fingers.

"Her results are inconclusive," defense attorney Ben Rice said later. The fingers that were not tested may have held trace amounts of Turturici's blood or skin, he said.

Turturici, 42, of Aptos, is accused of fatally shooting Foster, a 38-year-old software engineer and Summit area resident, on Highway 1 in Capitola on Feb. 8, 1996. The shooting marked the county's first freeway killing.

Turturici turned himself in after police linked him to the shooting from a license plate number scrawled on a piece of paper found in Foster's car. Turturici has admitted he shot the unarmed Foster, but claims the shooting occurred after a drunken Foster menacingly chased him from Highway 17 in Los Gatos and made him fear for his life.

Duda's DNA testimony also showed that a streak of saliva found on the driver's side door of Foster's car belonged to Foster. That evidence supports the defense's claim that Foster was not only high-beaming and cursing at Turturici, but also spitting at him.

Other testimony from prosecution witnesses included the following:

- A gun expert, Scot Armstrong of the Department of Justice, said he believes Foster was shot in the chest from a distance of anywhere from 2 to 4 feet.

- Detectives found a loaded .357-caliber Magnum under some clothes in a hamper at Turturici's house. The gun is one of two registered to Turturici, who reportedly used the guns for protection while making deposits for a San Jose restaurant he co-owns. The other gun, a .380-caliber Colt pistol, is believed to be the weapon used in the shooting, and was turned in to authorities when Turturici was arrested.

- When detectives seized Turturici's Mercedes sedan, it had been cleaned. No shell casings were found, but a forensic scientist later discovered traces of gunshot residue from the driver's side door.

The prosecutor, Chief Deputy District Attorney Jon Hopkins, is nearly ready to wrap up his case. The defense is tentatively scheduled to start presenting its evidence this afternoon.