

# Freeway shooting case goes to jury

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SANTA CRUZ — One man had a loaded mouth. One man had a loaded gun.

"The two didn't match up very well, especially on the highway," Chief Deputy District Attorney Jon Hopkins said Friday during closing arguments in David Turturici's murder trial. "And as you all know, it was a deadly combination."

In the county's first known freeway slaying, Turturici, 42, of Aptos, is accused of fatally shooting Rick E. Foster, 38, of the Summit area, on Highway 1 in Capitola.

The shooting occurred around midnight Feb. 8 near the 41st Avenue off ramp, about 20 miles after the two men first crossed paths on Highway 17 in Los Gatos.

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The only account came from Turturici, who claims he shot Foster in self-defense.

Turturici testified that Foster chased him, kept flashing his high beams on

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him, cursed and spit at him, and almost rammed him into a guard rail on the fishhook curve where Highway 17 and Highway 1 intersect.

The San Jose restaurateur said he tried to shake his pursuer but couldn't. Finally, he said, he pulled over and brought out a loaded gun that he had bought for protection while carrying cash for his restaurants. He said he meant only to scare Foster off with the gun.

Instead the two struggled over the weapon, Turturici said. He feared he would die by his own weapon.

"Did David suddenly snap? Did David suddenly turn into a cold, calculated killer?" asked defense attorney Ben Rice, who portrayed Turturici as a caring, non-violent man during the trial.

Foster was a troubled man with a foul mouth and temper, Rice said. He

drank, then drove that night, and Turturici "was caught in the cross fire," Rice said.

"I can't imagine a more appropriate case for self-defense," Rice continued. Turturici "picks the most brightly lit part of the freeway and for what? To ambush (Foster)?" If he wanted to kill him, he could have taken him to a deep, dark place. But we know Dave isn't like that.

"Dave was absolutely in his right to pull out that gun," Rice said.

Hopkins disagreed.

Launching one attack after another, Hopkins raised questions about Turturici's credibility, about his memory of some details and not others. He disputed Turturici's claim of self-defense.

Where, Hopkins said, is the "imminent danger" — a requirement for self-defense — when Turturici pulls over,

and Foster walks out of his car, and approaches him, unarmed?

Even if the "road shenanigans" that Turturici testified about were true, Hopkins said, "once you stop, is pulling a gun more like revenge or getting even?"

If Turturici indeed thought, as he testified, that Foster may have had a gun, "then why did he pull over and put himself at risk?" Hopkins asked.

"A reasonable person does not pull off the freeway then open his (car) window, and then his door, when he's afraid for his life," Hopkins said.

Also, "if the defendant is the one being wronged, why isn't he the one who's writing down the license plate number?" Hopkins asked, referring to how Foster scrawled Turturici's license plate number onto a piece of paper left in his car.

The fatal shooting, Hopkins argued, was second-degree murder — an unlawful killing that is committed with malice but without premeditation.

"He cocked the hammer and pointed it square at Foster's chest. That is malice ... and malice means murder," Hopkins said.

The jury will begin deliberating Monday.